



UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT



CROATIA COMMERCIAL COURTS ASSESSMENT

JUNE 2000

USAID SEGIR General Business, Trade & Investment
Contract No. PCE-1-00-98-00013
Task Order No. PCE-I--03-98-00013-00

BOOZ·ALLEN & HAMILTON



TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	1
A. CONTEXT	1
B. PRINCIPAL FINDINGS	1
C. RECOMMENDATIONS	2
1. <i>Restoring Courtroom Discipline</i>	2
2. <i>Reducing Appellate Backlog</i>	3
3. <i>Providing Essential Legal Materials</i>	3
4. <i>Preparing Courts for Modern Management</i>	3
5. <i>Improving Bankruptcy Practice</i>	3
II. INTRODUCTION.....	5
A. PROJECT BACKGROUND	5
B. BACKGROUND OF THE COMMERCIAL COURTS	5
A. LEGAL FRAMEWORK	8
1. <i>The Law on Courts</i>	8
2. <i>Rules of Court Procedure (Sudski Poslovnik)</i>	12
3. <i>Law on Civil (Litigation) Procedure (Zakon o Parninom Postupku)</i>	13
4. <i>Law on Bankruptcy</i>	14
5. <i>Enforcement Act</i>	15
6. <i>Arbitration</i>	16
7. <i>Croatian Company Law</i>	17
B. IMPLEMENTING INSTITUTIONS	18
1. <i>Commercial Courts</i>	18
2. <i>High Commercial Court</i>	20
3. <i>Supreme Court & Constitutional Court</i>	22
5. <i>Municipal Courts</i>	23
C. SUPPORTING INSTITUTIONS	25
1. <i>Association of Judges</i>	25
2. <i>Bar Association</i>	25
3. <i>Law Faculties</i>	26
4. <i>Association of Notaries</i>	27
5. <i>Chamber of the Economy</i>	28
6. <i>Croatian Law Center</i>	28
7. <i>Private Sector Associations</i>	29
8. <i>Commercial Banks</i>	29
9. <i>Print and Broadcast Media</i>	29
10. <i>Center for Export Promotion</i>	30
11. <i>Computer Technology</i>	30
D. THE MARKET FOR REFORM.....	31
ANNEXES	
ANNEX 1: ORDER IN THE COURT: RESTORING PROCEDURAL EFFICIENCY AND EFFECTIVENESS IN CROATIA'S COMMERCIAL COURTS -- PRELIMINARY RECOMMENDATIONS FOR A PROGRAM OF ASSISTANCE	
ANNEX 2: PROPOSED SHORT-TERM ASSISTANCE FOR THE COMMERCIAL COURTS	
ANNEX 3: STRAHAN, VJERAN. "TABLE OF CURRENT REGISTRATION BOOKS AND RECORDS KEPT BY THE COMMERCIAL COURTS"	
ANNEX 4: LIST OF CONTACTS	

I. EXECUTIVE SUMMARY

A. CONTEXT

Croatia has recently returned to the civil law tradition of Continental Europe after 45 years under a socialist system that broke with its historical legal institutions and customs. During the past decade, much work has been done to re-integrate the country into Western commercial law, with a number of important laws (such as bankruptcy) adopted and adapted from Germany and Austria. In this same ten years, the Croatian judiciary has undergone dramatic staffing changes, so that approximately 30% of the judges in the Commercial Courts have less than five years experience. Little training has been provided to these new judges, or to the legal community in general for these new laws.

As a result of these changes, the Commercial Courts of Croatia have recently entered a period of crisis, with an escalating backlog as the caseload continues to grow. Bankruptcy and enforcement cases have almost overwhelmed some courts, affecting their ability to process cases of any sort. At present, commercial litigation seldom produces meaningful results within a meaningful timeframe. This breakdown in the legal system is affecting the economic condition of the country, and has been cited as a significant cause of economic losses, including bankruptcy and unemployment.

To address this situation, the Croatian Ministry of Justice (MOJ) has requested assistance from United States Agency for International Development (USAID), as well as from other institutions such as the World Bank. USAID has contracted Booz·Allen & Hamilton to provide assistance to the Commercial Courts Croatia. A Judicial Assessment Team of three court specialists has worked for three weeks to help the Croatian legal community identify and analyze priority needs and solutions. Through extensive interviews with judges, law professors, court personnel, lawyers, businessmen, bankers, and government officials, and analysis of laws, the team has developed a number of proposals for mitigating the current problems and improving the overall operations of the judiciary in the near and long terms.

B. PRINCIPAL FINDINGS

The overriding priority for the Croatian Commercial Courts right now is to restore order and establish efficiency in judicial proceedings and processes. New laws, inexperience, and lack of training have left the courts without a sense of certainty or order, and the inordinate delays, lack of attorney discipline, and excessive appeals and challenges are eroding the utility and professional reputation of the courts.

The Judicial Assessment Team identified four categories of competence where assistance is needed:

- **Discipline:** The ability of the courts to control the proceedings and the parties to the proceedings in a timely and effective manner.
- **Administration:** The ability to carry out the overall mandate of the courts in an orderly and efficient manner.

- Adjudication: The technical capacity of the courts to decide cases in accordance with law and established practice.
- Self-government: The ability of the courts to realize fully their constitutional responsibility as an independent branch of government.

In general, the legal framework of the Commercial Courts is satisfactory. Enhancements are needed, however, in several areas. First, the sanctions available to judges for controlling litigants and ensuring timely pleadings and hearings are very weak, and even those sanctions are not well understood. Practice and law need to be strengthened. Second, rules governing court operations are insufficient to meet the needs of a modern court system, especially once the courts are computerized. Existing rules are too general and need to be tailored to the different categories of courts (Commercial vs. Municipal, first instance vs. appellate) and to courts in different locations (Zagreb vs. Osijek).

The Commercial Courts, as the implementing institutions responsible for interpreting and enforcing Croatia's commercial laws, need better administrative procedures in case management, file management and operations to absorb the increasing caseload of the present and the future. In addition, judges want and need additional training both in substantive law and in how to run a courtroom. There is currently no formal training system for judges or staff, and few older mentors left among the judges to help acclimate and train new arrivals. In addition, few judicial opinions are published or circulated, leaving the judges without a body of decisions to help them interpret and apply new and established laws.

There are numerous supporting institutions -- the Croatian Judges Association, the Bar Association and the Law Faculties in particular -- who can provide services to improve the technical and practical knowledge of the legal community, but they need assistance to target the areas of need and organize appropriate programs. Internally, there is a strong foundation of qualified individuals who could conduct workshops, seminars and other programs, but organization help and training is needed.

The demand for reform is great. The entire legal and business community agree that there is a serious problem in the Commercial Courts, and that something must be done. The general public also seems to share this opinion. Although this demand is pervasive, it is unfocused -- there is no established conduit for turning discontent into reform. If the various stakeholders can be brought together, they should be able to accomplish substantial changes over the next few years, and even in the next few months.

C. RECOMMENDATIONS

The Judicial Assessment Team identified a number of activities and interventions that would have substantial impact over the short, medium and long terms. These are noted throughout the text, and an overall program of proposed reforms is attached as Annex I. Due to the critical immediate need, and due to the short-term mandate of Booz·Allen & Hamilton to address that need, the Team is proposing five areas for immediate action:

1. Restoring Courtroom Discipline

The highest priority for judicial reform today is to restore discipline in courtroom proceedings. Few judges understand or enforce the existing rules of procedure, especially with respect to timely submission of pleadings, documents and evidence, resulting in simple cases being dragged out for months and even years. The highest impact activity for short and long term improvements will be to identify existing sanctions and teach judges how to use them, while also teaching lawyers how to manage their cases efficiently to avoid sanctions.

2. Reducing Appellate Backlog

Approximately 35% of the appeals currently backlogged in the High Commercial Court involve simple issues of procedure or other relatively well-settled law. The backlog, however, is taking months or years to clear. Within six months, a Croatian legal specialist could be trained to sort backlogged cases by complexity, provide preliminary determinations and recommendations for a judge, and decide, assuming one judge was assigned to review and decide the expedited appeals. In addition to eliminating a large percentage of backlogged cases, this activity would establish an ongoing system of expedited appeals to ensure the backlog did not re-appear.

3. Providing Essential Legal Materials

Very few High Commercial Court decisions are currently published. As a result, lower court judges and litigants do not have any adequate source of information on how the High Commercial Court interprets and applies the law. This leads to unnecessary suits and unnecessary appeals, which in turn increase the caseload and backlog of both the Commercial Courts and the High Commercial Courts, and decrease the efficiency of the court system and the development of commercial and procedural law. Within six months, all recent and newly issued decisions of the High Commercial Courts could be available on the internet without purchasing additional equipment, while reducing the cost and administrative burden of the High Commercial Court staff of disseminating decisions.

4. Preparing Courts for Modern Management

Commercial Court archives are overloaded with expired case files, resulting in a lack of proper storage space and inability of the administrative staff to find or organize active files reasonably. Approximately 50% of all files maintained in the courts are being retained in violation of the existing file retention regulations. This situation must be improved before any attempt to computerize the courts, and is essential even without computerization. Within six months, several court personnel, plus a team of temporary assistants, could be trained to sort files accurately in accordance with the file retention regulations, and identify files for destruction or off-sight storage. The expired files could then be destroyed, and inactive files could be sent off sight. This would provide immediate improvements in court house space, file maintenance, and preparation for the proposed World Bank Computerization.

5. Improving Bankruptcy Practice

Bankruptcy filings have reached almost epidemic proportions in the past few years, and an estimated 20,000 existing companies could become qualify for bankruptcy in the next few

years. These cases, and execution cases arising in part from bankruptcy, comprise the overwhelming majority of backlogged cases. The World Bank is planning a program of assistance to train bankruptcy trustees and other support professionals, but much can be done prior to the start of that program to reduce the backlog and increase the speed in which cases are handled. Within six months, a practical bankruptcy seminar could be created to train lawyers and judges in law, rules, and procedures, and a cadre of judges could be trained with bankruptcy lawyers. In addition, it might also be possible to analyze and dispose of a large number of existing backlogged cases by training a legal specialist to analyze and recommend disposition for bankruptcy judges to rule on an expedited basis.

The Judicial Assessment Team has also recommended that a General Assembly of all Commercial Court judges be held in October or November to provide basic training in courtroom discipline, basic case management theory, use of appellate decisions to in deciding cases, and other basic or advanced skills in how to function effectively as a judge.

Finally, it should be noted that the Judicial Assessment Team focused almost exclusively on solutions that do not require the purchase of computers or other equipment. Very few of the recommendations for either both short- or long-term depend upon the technology. (Even the proposal for internet publication can be done through a service contract without buying equipment.) The Team recognizes that technology can greatly improve some of the processes and the efficiency of the courts, but that even technological solutions depend upon an appropriate underlying system.

II. INTRODUCTION

A. PROJECT BACKGROUND

At the request of the United States Agency for International Development (USAID) Mission in Zagreb, Croatia, Booz-Allen & Hamilton conducted a diagnostic legal assessment in March 2000. The team examined five areas of commercial law -- bankruptcy, collateral, company, competition and contract -- across four dimensions: legal framework, implementing institutions, supporting institutions and the "market" for reform. The assessment found that the legal framework was sufficient in most areas for the near term, but that the implementing and supporting institutions were in substantial need of attention. Specifically, the team identified three areas of priority need: (1) registries (including land, enterprise and pledge or collateral); (2) the Commercial Courts; and (3) access to legal information and knowledge.

To address these areas, USAID contracted Booz-Allen to conduct in-depth analyses of these three areas and to implement a program of short-term interventions in collaboration with the Croatian Ministry of Justice (MOJ). A Registries Team was deployed in April 2000, completing an assessment in early May, with implementation of assistance scheduled to begin in June. A Judicial Assessment Team conducted a three-week assessment from May 14 to June 3, 2000. A third team is scheduled to address the needs in legal information and knowledge access, starting on June 10.

This report has been prepared by the Judicial Assessment Team, consisting of Wade Channell, Thaddeus Bejnar and Robert St. Vrain. The team conducted interviews over a three week period, including private sector users of the courts, lawyers, law faculty, judges of the Commercial Courts, court staff, judges of the Municipal Courts, private sector associations and NGOs. The purpose of this wide range of opinions was to identify as accurately as possible the causes of and solutions available for improving the overall efficiency and effectiveness of the Commercial Courts.

This assessment focused on strengths and weaknesses of the legal framework for these courts, the implementing institution (in this case, the Commercial Courts themselves) and their internal legal and functional strengths and weaknesses, supporting institutions, and the demand for and supply of legal reform (the "market") in order to formulate appropriate Croatian solutions to the problems. The recommendations for reform that follow include interventions for which outside assistance may be required as well as changes that can be made without foreign assistance. All have been vetted among interview respondents and are supported by one or more of the groups interviewed.

B. BACKGROUND OF THE COMMERCIAL COURTS

Until 1945, the Croatian legal system had developed in the European Civil Law tradition for centuries. Under Marshal Josip Tito, Croatia became part of the Federal Socialist Republic of Yugoslavia, which practiced a command legal system, in which the branches of government were not separated for checks and balances, but "unified" to serve the will of the state. In other words, the purpose of the judiciary under the post-war Yugoslav system was to enforce the political and economic decisions of the executive. Since almost all transactions were

done by or with the state, there was very little commercial law or practice, and most commercial disputes were essentially administrative matters.

In 1990, Croatia adopted a new constitution, which once again proclaimed the judiciary an independent branch of government. Upon independence in 1991, it was anticipated that the court system would be transformed in accordance with this constitutional principle of equality and independence. President Franjo Tudjman and his ruling HDZ party, however, saw the judiciary differently. The government actively undermined the independence of the judiciary by manipulating the confirmation and appointment of judges along political lines. Many well-qualified judges were pressured out of office or passed over for appointments in favor of party candidates, some of whom were not professionally qualified for their posts. Moreover, many of these newly-appointed judges were confirmed and given life-tenure without regard to their lack of expertise and qualifications. Even among the better qualified appointments, however, the political nature of the selection process compromised the reputation and independence of the appointees.

At the same time, the country began to adopt much needed legal changes in all areas of law. In the commercial arena, new laws -- many adapted from Germany or Austria -- were enacted in support of the shift to a market economy. Bankruptcy, franchising, company (including securities, or share-holding)¹, private property and other laws, which had not been used in Croatia since 1945, were passed. As conflicts arose between private parties, even the most experienced judges were ill-prepared to interpret and apply the flood of new laws.

As a result of these changes, the Commercial Courts of Croatia (as well as other courts, mentioned briefly below) are being overwhelmed by the ever-growing caseload in bankruptcy and execution cases. Decisions in even simple matters can take more than two years, and complicated cases can last five or six years. Once decided, enforcement proceedings are frequently stalled and avoided, delaying debt collection for another year or two. Often, either the defendant or plaintiff or both may be bankrupt by the time a judgment can be enforced. Indeed, the Commercial Courts have been cited as a cause of bankruptcy, lost investment and unemployment in Croatia.

In short, the Commercial Courts are in crisis. Judges do not have the necessary tools to perform their jobs effectively in terms of technical expertise in the new laws or experience in commercial decisions, nor training in how to manage their caseloads. Although the political appointments were not as invasive in the Commercial Courts as in the Municipal Court system, approximately 30% of the Commercial Court judges have less than five years experience. The administrative system also creates problems, and is in serious need of modernization and, eventually, computerization to incorporate international best practices in case management and court administration.

Three conditions, however, make this an opportune time for effective reform. First, there is strong but unfocused demand for reform throughout the commercial legal community (including the judges) and the general public. Second, the Ministry of Justice is staffed with recognized and respected reformers who are dedicated to change. Third, the United States, European Union and World Bank are prepared to provide various forms and levels of

¹ In Croatian, "securities" refers to several assets other than shares of a company, and thus is generally referred to as "shares of a company" in this report in order to avoid the confusion inherent in false cognates.

assistance to Croatia's court reform efforts, including technical assistance and loans for upgrading technology.

This current study, while recognizing the eventual need for technological tools such as computerized case management systems, has focused on those areas of reform that will be required with or without computers. The analysis which follows, therefore, emphasizes short-and long-term programs and activities that can improve the overall performance of the Commercial Courts concurrently with the advent of computerization. Computerization will definitely enhance some reforms, but other reform efforts require change in practice, approach and attitude that technology alone cannot provide.

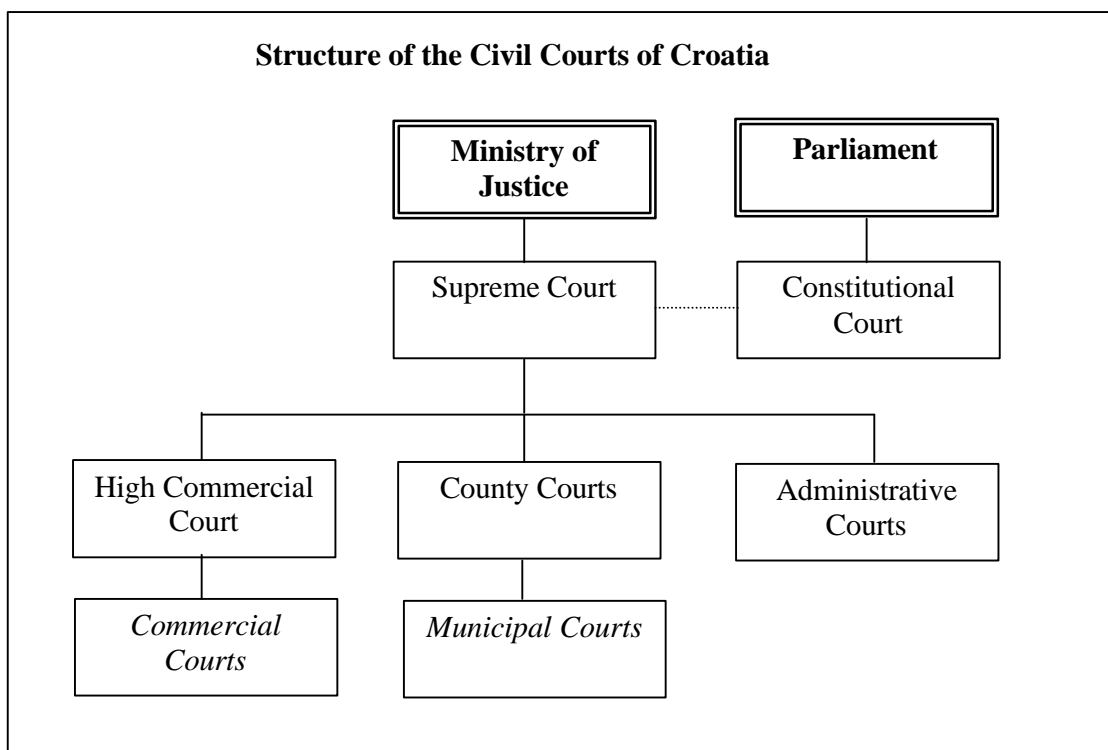
III. ASSESSMENT FINDINGS

A. LEGAL FRAMEWORK

The legal framework for the Commercial Courts of Croatia is defined and established at a number of levels. First, the Constitution provides in Article 4 that the judiciary as a whole shall be an independent branch of government. The exact system of courts, however, is left for regulation by law. This law, the Law on Courts, sets forth the overall framework of first instance and appellate courts. Below the statutory level are the Rules of Court promulgated by the MOJ. Additional local rules of substance do not exist, however, but should. Other areas of law such as the Law on Enforcement, Company Law and laws relating to arbitral awards also have an impact on the operation of the Commercial Courts.

1. The Law on Courts

The principle body of law establishing and regulating the court system in Croatia is the *Law on Courts*.² This Law describes the different courts and their hierarchical relationship. Under Article 43, the MOJ has authority to issue special regulations for the operation of the courts, which are known as the *Court Regulations* or *Rules of Court*.³ The territorial competency of the courts is established based on Article 89 of the Constitution with the Law on the Jurisdiction and Location (Seats) of the Courts.⁴



The *Law on Courts* is based on the European legal tradition and establishes a court system very similar in principle and composition to those in most countries in Continental Europe.

² ZAKON O SUDOVIMA, NN 3/94 and 100/96

³ SUDSKI POSLOVNIK, NN 80/97

⁴ ZAKON O PODRUCJIMA I SJEDIŠTIMA SUDOVA

The law is technically well drafted, internally consistent and philosophically clear. Although there are some weaknesses, examined below, the law is generally sufficient for the purposes of installing, maintaining and supporting a reasonably independent and competent judiciary.

Judicial Independence. Article 4 of the Constitution establishes the judiciary as an independent branch of government. Even so, like many other countries, Croatia has maintained a formal, hierarchical relationship between the judiciary and the Ministry of Justice. During the socialist period (before 1990), this relation was direct, with the MOJ responsible for almost every aspect of the operations of the courts. The new law, however, has reduced the influence of MOJ, but it still has authority and responsibilities for economic and disciplinary matters (Articles 37-45). Many other Western court systems limit or eliminate even these responsibilities to ensure observation of the principle of total judicial independence.

Flowing from this principle, the law provides that judges shall decide all matters based on law, and that their decisions can be overturned only by higher courts with appropriate authority. Moreover, judges and members of judicial panels are immune from prosecution for actions taken in execution of their obligations (Article 9). This immunity ensures a certain level of independence of action by protecting judges against political revenge or pressure through inappropriate prosecutions, but the system of appointment has been manipulated in the past to populate the judiciary with political appointees. Thus independent decision-making has been undermined on an institutional basis, although theoretically upheld on an individual basis. [A task force has already been formed to review the procedures of the State Judicial Council, which is responsible for appointment, discipline, tenure and professional qualifications of address this problem of appointment, so these issues will not be addressed further here.]

Another institutional limitation on judicial independence can be found in the authority of the MOJ over certain aspects of the courts. This budgetary and administrative authority of the Ministry of Justice may currently be justified due to the condition of the judiciary, but should eventually be reduced or eliminated: budgetary and administrative constraints can be misused to politicize or control courts and decisions, and should not rest permanently in the executive branch.

There is not full agreement yet on what constitutes judicial independence. At present, there appear to be at least two working definitions of "independent." On one hand, the MOJ seems to define independence as an absence of direct interference in the judicial decision-making process. On the other hand, independence-minded judges, some law faculty and some practitioners see independence as an absence of direct or indirect control, especially including budgetary power. Complicating this issue is the matter of recent culture and history. Manipulation of judicial appointments along political lines sent a clear message that judges were expected to be responsive to the commands of the state instead of actively deciding for themselves. Although many judges have never adopted such an approach, 45 years of a command model of government together with recent political incursions have left many members of the courts with a very passive attitude. As a result, few judges are willing to attempt changes in the judicial system without direct permission from the Ministry of Justice.

At this moment in history, the situation is in flux: the courts are theoretically independent, but now must seek to establish and expand independence in practice. Short-term solutions will therefore require MOJ directives if the crisis in the Commercial Courts is to be stopped

and reversed. Over time, however, decision-making authority at all levels will need to be increasingly delegated to the courts to ensure independence.

Subject Matter Jurisdiction. Commercial Courts are charged with both adversarial and non-adversarial proceedings. On the adversarial side, the subject matter jurisdiction of the Commercial Courts is set forth in Article 19 of the *Law on Courts*, which empowers the courts to hear disputes on the following matters:

- a. commercial transactions;
- b. naval vessels and navigation in the sea and domestic waterways, cases to which the maritime law applies (with the exception of cases related to transportation of passengers).
- c. air transportation, except the transportation of passengers;
- d. inventions and intellectual property;
- e. unfair competition;
- f. economic relations with foreign individuals and entities;
- g. persons, related to the persons specified in a) and f);
- h. economic crimes.⁵

This jurisdiction also includes all cases related to the establishment, operation, and liquidation of commercial entities, and to the bankruptcy and liquidation of legal entities, notwithstanding the character of the opposing party, unless the law provides otherwise.

The High Commercial Court hears appeals from the Commercial Courts and resolves conflicts of law as to the venue. The Supreme Court hears appeals from decisions of the High Commercial Court, when this is provided by the law (Section 22-5), and decides on conflicts of law issues for the courts in Croatia, if it is the first common highest court for the two courts between which the argument is taking place (e.g. between a county court and a Commercial Court).

The delineation of jurisdiction is affected not only by the subject matter, but also by the nature of the parties to the disputes. In essence, the Commercial Courts have jurisdiction over commercial disputes between commercial entities. Commercial disputes between the government and a natural or legal person are under the jurisdiction of the administrative courts, and those between a natural party and an entity are generally settled in the Municipal Courts.

This division of jurisdiction is not unheard of in Europe, but it has been cited by the Croatian legal community as a constraint on the development of commercial law. The problem, according to numerous respondents, is one of inefficiency -- instead of creating and supporting a specialized cadre of judges and practitioners who understand and apply commercial law, the expertise (or lack of it) is diluted across three judicial systems. It is recommended that the jurisdiction of the Commercial Courts be expanded to include all commercial matters in excess of some *de minimus* monetary value, including claims involving the state when contracting on a commercial basis. (Jurisdiction of Administrative Courts should be limited to only those claims arising in connection with actions unique to the

⁵ While all crimes are subject to the Criminal Code, the economic consequences of economic crimes are considered in the Commercial Courts.

state as a sovereign (e.g., taxes and property condemnation), not when those actions which could be carried out by a private party (e.g., lease agreements, contracts of sale or purchase).

On the non-adversary side, the Constitutional Courts are charged with the maintenance and operation of the Company Registry. Again, this is not unusual in the Continental tradition, but in Croatia the registry process has unnecessarily burdened judges with essentially ministerial, non-judicial tasks that can be performed as effectively or better by others. The current system for approval and registration or amendment of company documents requires at least three or four steps:

1. A lawyer, notary or other individual prepares the relevant documents.
2. The documents (unless initially prepared by a notary) are then reviewed and approved or rejected by a notary.
3. Once approved by a notary, the documents are submitted to the registry clerk, who reviews the documents *de novo* and either approves or rejects them.
4. Upon approval by the registry clerk, the documents are sent to the judge for review. The judge may also reject the documents, or approve them and send them back to the clerk for registration.

Arguably, no value is added after the first step if the documents are initially prepared by a competent professional. As a result of this unnecessarily complicated process, the length of time for registration is unacceptably long in Zagreb and some of the other major commercial centers, with registration taking months or even as long as a year or more. In addition, judges are burdened with duties that do not require their attention -- in the vast majority of cases, compliance with law can be easily verified at filing, with very few extraordinary cases needing judicial attention. Finally, it has been noted by a number of respondents that the backlog in filings has created an environment in which rent-seeking behavior can flourish, and has begun to appear. Expedited filings increasingly require unofficial "gifts" or influence. Computerization alone will not eliminate such pressures.

Two simple approaches can be used to eliminate unnecessary redundancy and simplify the process. For both, there should be standardized requirements and forms (including a filing cover sheet with a checklist of legally-required enclosures). The first approach is to require that any legal documents be verified and approved by a notary prior to filing. Once notarized as to form and substance (as opposed to mere recognition of signatures), the documents should be accepted for filing with only cursory review of basic legal requirements by the registry clerk. The benefit of this filing change is that responsibility and legal liability for compliance with the Company Law would pass to the notary, not the court. Only rarely would a judge need to be involved in reviewing the documents, so that overall effort and cost of the courts -- for both judges and clerks -- would be substantially reduced.

The downside to this level of efficiency is that it provides the notaries -- who already constitute a legal cartel -- with a legal monopoly over all corporate filings. This arrangement can result in bottleneck delays (if demand for incorporation increases beyond the capacity of existing notaries to process requests), and in monopolistic pricing practices. Another approach, which is somewhat less efficient, would be to permit non-notaries to prepare the documentation, but subject such preparation to a higher level of scrutiny. In this scenario, the market for services should eventually reduce the need for review: clients would soon discover which preparers (presumably lawyers) were most successful in getting filings done without rejections and delays, while clerks would come to know which preparers could be

trusted, and thus need less scrutiny. In any event, reform is necessary and can be effectively accomplished simply by passing the liability for improper filings to the preparers, while reducing redundant or excessive involvement by the courts.

It should be noted that many countries do not house the company registry within the courts. Indeed, there is little reason for requiring the judiciary to approve registries at all. Although the Judicial Assessment Team recognized the benefits of removing the company registry from the courts, we also felt that this is a long-range goal. In the short term, such an adjustment might overload the courts' absorptive capacity for change in light of the many, more important modifications underway.

2. Rules of Court Procedure (*Sudski Poslovnik*)

The Rules of Court Procedure are promulgated by the Ministry of Justice to define internal operations of all courts. These rules, consisting of more than 300 articles, cover a wide range of administrative and procedural issues. Topics range from what offices there shall be in the courts, to specifics about the docket books, indexes and archiving procedures. These rules are reported to be substantially unchanged from the version in use under the Austro-Hungarian Empire, having been translated from the German. However, the rules have been amended a number of times in the past 12 years, including 1988, 1990, 1994, and 1996, with a full re-issuance in 1997 and additional changes in 1998. The rules apply across the board to all courts, with only three provisions that apply uniquely to the Commercial Courts.

Over the last hundred years, practices have been developed in individual courts that are deemed *by the court staff* to be mandated by the Rules of Court Procedure. These can be seen as falling into two categories: (1) those which are additional to the rules; and (2) those practices which arise from a different form of implementation of the same rule. In the first instance are practices such as consolidating all docket entries when a new registry book is opened so that all property of one owner is located in a single book. The second type would include public posting of a separate, redacted copy of docket information, instead of an individualized search for the requested docket number upon a telephone request. Many of these elaborations on the rules are useful, such as the placing of a tic mark on the cover of a file when a certain procedure has been accomplished, although such marks are meaningless to the uninitiated.

While judges are generally aware of the Rules of Court Procedure, most do not know the specifics, and most do not believe that they create any impediment to the courts' work. As demonstrated by the highly detailed information and paper flow diagrams of these procedures (prepared by Vjeran Strahonja, of IGEA, Ltd. for the World Bank), these procedures contain both unnecessary replication of information (especially as implemented) and at the same time lack proper records management controls. This analytical conclusion is supported by anecdotal evidence of a high number of temporarily misplaced case files (a cause of delay).

One major lack of file management control (and data collection) is with regard to case files while they are in the hands of the judges. In part, this is a result of the Rules of Court Procedure being originally designed for a system where case files would only be away from the Chanceries for a week at a time, or at most a fortnight. At present, the case files are with the judges for months and years.

Attorneys and other legal practitioners are even less aware of the Rules of Court Procedure. For example, while the Rules of Court Procedure set out detailed retention schedules for various types of case files (Articles 245 -253) with periods as short as seven years, many believe that all case files are required to be kept permanently. One result of the one-size-fits-all scope of the Rules of Court Procedure is that courts are creating and keeping records that are not used and that do not need to be saved.

The current Rules of Court Procedure are not appropriate for an automated case management, financial management, or court administration environment. Indeed, as currently written, they do not permit any automation. Consequently, it will be necessary to amend the existing rules or create separate rules for each category or type of court (e.g., courts of first instance and appellate courts) before automation can be implemented. This rule supplementation effort can and should be done in the near term, prior to automation, to avoid any disparity between law and practice.

The existing Rules of Court Procedure are in need of revision. Ideally, there should be overall rules of a general nature applying to all courts, with separate sections for the individual needs of each different set of courts, including separate rules for the Commercial Courts, the High Commercial Court, the Municipal Courts and the County Courts. In addition, the Rules should provide parameters within which each individual court could issue local rules of procedure. For example, the Zagreb Commercial Court, due to its large caseload, might limit phone calls for docket questions to one day a week in order to improve clerk efficiency, while the court in Zadar would need no such restriction.

The rules applicable to Commercial Courts should be identified and drafted by the judges of the Commercial Courts in collaboration with the MOJ. Eventually, principles of judicial independence would dictate a transfer of authority for such administrative and procedural matters to the judiciary; for now, however, it is unlikely that most courts would adopt or implement new rules without the consent and direction of the Ministry. By working with the Courts and requiring them to determine their own needs, the MOJ can help forge the transition to independence, even if their imprimatur may still be required in the short term.

3. Law on Civil (Litigation) Procedure (*Zakon o Parninom Postupku*)

The Law on Civil Procedure is based upon the old Austro-Hungarian law of 1898, which was codified for Yugoslavia in 1929. The then current Yugoslav version (codification of 1962) was adopted essentially unchanged in 1991. This law governs, *inter alia*, the requirements for petitions, case management requirements for judges, and remedies available to judges. Several small changes have been made in the law each year since 1995, but they have not addressed most of the issues raised by the legal profession in the meetings of the Taskforce assigned to propose changes to this law, especially those issues raised by the judges and law professors. As a result of the many changes in commercial law and the so-far rather limited changes in the Law of Civil Procedure, provisions in this law have been perforce superceded by practice under the new laws. The lack of publications about practice under the Law on Civil Procedure has meant that these practices tend to be non-uniform and to generate a fair number of appeals. Notable exceptions to this lack of dissemination of practice information are four volumes of mostly 1994 decisions from the High Commercial Court, and a few law review articles such as one on jurisdiction by Andrija Erakovic, a judge on the High Commercial Court, and one Judge Mladen Pavlovic of the Split Commercial Court wrote on freeing courts from the problem of unpaid closing costs.

Additional changes to the Law on Civil Procedure have been proposed by a task force headed by Prof. Mihajlo Dika of the Zagreb Law Faculty. These changes include much-needed tools for maintaining courtroom and procedural discipline, such as contempt of court (fashioned on the British model). The proposed amendments were submitted to the MOJ prior to recent changes in government and are currently under review.

Under Law of Civil Procedure the judge is responsible for controlling discovery, and specifically for initiating discovery where he deems information to be missing. Some attorneys and judges expressed concern about allowing attorneys "too much" latitude in requesting the judge to order discovery. Attorneys were also concerned that judges would react negatively to their requests for orders for discovery.

4. Law on Bankruptcy

The Law on Bankruptcy of 1997 is significantly changed and new enough that judges are still investigating the internal nuances, and how its provisions relate to older laws. Information about practice under the new law is not effectively disseminated. For example, one judge, who does mostly bankruptcy, indicated that there had been several attempts at restructuring of bankrupts under the new law but that none had been successful. The High Commercial Court on the other hand reported that only one major restructuring had been attempted, and that it was successful.

Among the commercial entities there seems to be the feeling that bankruptcy was equivalent to the old liquidation procedures, and the consensus was that it was generally better to have an on-going company as a debtor than to have a company in bankruptcy as a debtor. Commercial entities and others also referred to the Great Circle of Debt as a reason to avoid pressing for a bankruptcy. On the judges' side, however, there was general agreement that nearly all bankruptcies were brought too late in the debt process to effectively manage them. This lack of understanding creates a number of problems. First, by waiting until the debtor is essentially defunct, the bankruptcy action becomes an exercise in futility, in which litigants wrestle over an ever shrinking body of assets. Thus the courts become clogged with complicated and costly litigation that is often not justified by the overall benefits received. Second, only a few judges understand the legal and commercial issues involved well enough to make timely and legally appropriate decisions; less experienced judges tend to put-off the decisions and delay the court proceedings for fear of making a wrong decision that might be overturned upon appeal. The length of time required to recover assets from a bankrupt debtor -- often in excess of two years -- has led many creditors to write off loans, and has put others into bankruptcy because they could not collect the assets they needed to pay off their own creditors.

A third problem arises from a somewhat different angle. Bankruptcy is an expedited procedure -- at least at the outset -- and bankruptcy claims tend to receive their first hearing within approximately one month of filing. Some commercial lawyers report that they bring simple debt collection actions -- which often take up to six months or more for an initial hearing -- as bankruptcy claims so that they gain leverage to obtain payment or otherwise renegotiate debt, and then drop the case or simply cease to pursue it. This strategy is certainly understandable as a creative solution to the crisis in the courts, but it brings about a serious misallocation of judicial resources.

Finally, lack of understanding of corporate law in the bankruptcy context is permitting use of bankruptcy as a fraud on creditors. The Company Law deliberately and carefully adopted the concept of "piercing the corporate veil" from German law. However, few judges understand the concept, and several respondents reported that they refused to apply the concept to bankruptcy proceedings because they did not know how to do so. As a result, the bankruptcy courts have become an unwilling agent in fraudulent transfers of corporate assets.

Croatia needs a specialized division of bankruptcy judges, especially as the number of bankruptcies continues to rise. The Law on Courts permits establishment of specialized courts, and places jurisdiction for bankruptcy in the Commercial Courts. These courts have already begun to establish *de facto* specializations, but *de jure* recognition is needed in order to allocate resources, provide training and establish appropriate rules for this critical area of law.

Like most judges, trustees in bankruptcy have little training or experience. With cases where there are realistic assets, the trustees can utilize appropriate experts. Where assets are insufficient, trustees and the judges are on their own. The cost of appraisals and costs of sale can easily equal or exceed the value of specific assets. The World Bank is reported to be planning a program of assistance in the area of bankruptcy, so that the Team did not focus heavily on this area. Even so, some concerns were raised that may not be addressed by the World Bank project.

5. Enforcement Act⁶

Under Article 19 of the Law on Courts, the Commercial Courts are empowered to "decide and conduct enforcement of the decisions which they have decided in the first instance," as well as to conduct proceedings for the recognition and enforcement of foreign judicial decisions and foreign arbitration decisions in commercial disputes. Although not expressly stated, the law is also understood to authorize Commercial Courts to enforce domestic arbitral awards in commercial matters.

A party wishing to enforce a judicial decision or arbitral award must commence an enforcement action. In the case of a Commercial Court judgment, the losing party may appeal the decision before it becomes final, or may challenge the enforcement proceedings themselves through appeal to the High Commercial Court. In practice, the greatest challenge comes from refusal of defendants to pay upon award of enforcement. A task force on procedural law has recommended the adoption of civil contempt sanctions to deal with such refusals.

This liberal admission of evidence throughout the trial and appellate process is based on a desire to avoid injustice in the event relevant new evidence is discovered after initial submission of evidence. In fact, the rule has been used instead to perpetrate injustice as the losing party will often "find" new evidence late in the process in order to delay and postpone judgment and enforcement, sometimes adding years to the process.

Although valid challenges and appeals must certainly be allowed to prevent injustice, enforcement proceedings are being thwarted through the appeals process. Most appeals from enforcement actions are based on relatively straightforward procedural challenges. The High

⁶ *Narodne Novine* 57/96.

Commercial Court, however, does not have a formal mechanism for separating and deciding such appeals on an expedited basis. Instead, these "limited" appeals are often assigned on a chronological basis and fall behind complicated and time-consuming matters. As a result, a clever attorney can delay enforcement for months or years. If the court has not ordered posting of security by the appellant, there may be no assets left to recover by the time enforcement is finally awarded.

Another delay occurs in the process of reaching final decisions and enforcement actions. An enforcement action cannot be brought until a decision is final, and the decision is not final until it has been served upon the parties and the period for appeal has expired. Due to financial constraints, some courts are unable to serve official documents for extended periods. In addition, this court-based service requirement has been reported as a source of improper influence -- one respondent reported an incident in which a clerk simply refused to serve the papers on the losing party due to a personal relationship, causing the attorney to obtain the papers and serve them himself in order to bring the judgment to finality for enforcement purposes.

Because of these potentials for delay and abuse, it is recommended that Courts be permitted to delegate or shift responsibility for service of documents onto the party seeking relief. In other words, the moving party could be provided with the option of serving the papers (with appropriate civil and criminal sanctions to prevent abuse) or paying the court or a court-appointed server to deliver the papers and provide proof of service. This system is used in other jurisdictions and provides certain advantages. First, it shifts responsibility and cost for relief onto the only party with an interest in seeing the action proceed to judgement. Second, it reduces the cost, administrative burden and labor of the courts. Finally, it avoids unnecessary action by the courts -- papers will only be served when absolutely necessary, and not when a compromise or settlement has been reached during the period between bringing the motion and service of papers by the court.

6. Arbitration

Both foreign and domestic arbitration are permitted in commercial matters, as long as all parties to the arbitration agree in writing to such procedures beforehand. The law recognizes both binding and non-binding arbitration, and the Commercial Courts are empowered to enforce arbitral awards.

Local arbitration is carried out under the auspices of the Chamber of the Economy, which boasts a number of internationally respected arbiters. Currently, the arbitration rules and system are being amended to better comply with UNCITRAL requirements, and the Judicial Assessment Team did not identify any particular problem or area in which assistance is needed at this time.

On the other hand, as noted above, enforcement of arbitral awards through the Commercial Courts is subject to substantial delays due to the backlog of cases at the courts and the various appeals and challenges available to the parties, even in the case of binding arbitration. It is recommended that a mechanism be established to provide for expedited handling of such cases, either by assignment on a rotating basis to one or more judges with experience in reviewing arbitral awards, or through a establishment of a specialized section or division. The court president can provide a crucial leadership role in assigning and managing these cases, and should be encouraged to do so.

There may be a change in the mandatory membership payment that currently funds the Chamber of Economy in favor of voluntary membership. Although the issues regarding such funding are outside the scope of this analysis, it should be noted that arbitration can continue through the Chamber, as well as through competing arbitration organizations, with all costs paid by the parties.

Lawyers dealing with foreign clients recommend arbitration clauses in all contracts with Croats in order to avoid the courts. Several Croatian lawyers who practice before the Court of Arbitration have also noted the need for additional forms of alternative dispute resolution (ADR) such as mediation and conciliation instead of adversarial proceedings, which they feel are overused and are burdening the courts.

The concept of ADR needs to be presented at workshops and seminars for both lawyers and judges. In addition, private sector associations such as the American Chamber of Commerce could play an important role in introducing such options to the business community. In many countries, the Bar Association is a leading proponent of ADR, in part because it can provide an additional role for attorneys to serve as neutrals and mediators. With Bar support, the introduction of such techniques and concepts could certainly reduce the number of cases that increasingly go to court.

7. Croatian Company Law

The Croatian Company Law was adopted in November, 1993 and is based largely on German and Austrian company laws. It authorizes company formation in all of the traditional European company forms. The law is considered to be flexible and accommodates the needs of both small and large enterprises.

The registry portion of the law has been criticized as overly cumbersome and requiring too much detail. There is concern among some of those who were interviewed that if the company registry process is streamlined and judge involvement is reduced the clerk's role may expand in ways that could be abused because of the degree of discretion that the clerk may exercise. Care will have to be shown in redesigning the registry process.

A strength of the law is the inclusion of the concept of *piercing the corporate veil*, which, if used, should give new protection to claimants who are injured by fraudulent corporate actions perpetrated by directors, officers and majority shareholders. Because many of the Commercial Court judges as well as many practitioners are not familiar with the Company Law, it is not being effectively used; some judges have refused to utilize provisions in the law because they have no prior experience with this new and alien concept.

Another criticism that was voiced was the lack of the German and Austrian adaptations which have been made over the years through court rulings and practice. The Commercial Courts and the High Commercial Court have struggled in interpreting and applying this law and subsequent amendments. Training for both judges and lawyers is needed if the Company Law and other commercial laws are going to be used effectively.

B. IMPLEMENTING INSTITUTIONS

1. Commercial Courts

The Commercial Courts in Croatia are specialized courts with limited jurisdiction. The Courts Act ("Official Gazette," No. 3/94 and 100/96) regulates the subject matter jurisdiction of these courts; commercial cases outside of that jurisdiction are handled by the Municipal Courts. Until recently, there were eight Commercial Courts in Croatia, plus the High Commercial Court as the court of appeals for most issues.⁷ The new government has expanded the number of Commercial Courts from eight to thirteen, adding five new Commercial Courts along with seven new County Courts.. Only two of the five new Commercial Courts are operational yet, however, due to budget constraints. This expansion of the courts has been controversial, with supporters contending that more judges and courts are needed, while critics argue that the increase is unnecessary and will result in a further dilution of the judicial pool of experienced judges.

The jurisdiction or competence of the Commercial Courts is in a state of flux. Confusion continues to plague the courts as various cases are appealed and interpreted by the High Commercial Court. The Law of Courts (Article 19) sets out the jurisdiction of the Commercial Courts, although another section regulates the minimum value that cases must have in order to be brought in these specialized courts. Currently, the Commercial Courts have jurisdiction over cases arising out of commercial contracts and cases for damages arising out of these contracts where those contracts are between persons "who conduct commercial activity." The High Commercial Court has applied a strict standard to this provision, excluding non-commercial contracts between commercial entities (e.g. leasing) and excluding commercial contracts between a business and an institution whose primary mission is not commercial activity (e.g. universities). The limitation to those "who conduct commercial activity" has been used to exclude commercial contracts between a registered company and an unregistered person who routinely engages in commercial activity (e.g. farmers). Several Municipal Court judges who were interviewed for this assessment reported that the law excluded a natural person from suing or being sued in the Commercial Courts, despite the fact that the High Commercial Court has expressly ruled that the status of being a natural person is non-dispositive.

Many commercial enterprise cases which by subject matter would clearly be within the jurisdiction of the Commercial Courts are instead within the general jurisdiction of the Municipal Courts. The Municipal Courts are *not* specialized courts and yet Municipal Judges handle a variety of commercial law cases because of the parties involved. The confusion over the Commercial Courts' jurisdiction continues to befuddle both judges and lawyers.

Another serious problem which afflicts all of the courts in Croatia, including the Commercial Courts, is the problem of delivery or service of process. The law requires actual personal service and parties can easily thwart delivery or service and delay the court process for months. The courts frequently do not have enough money to pay for postage and the Post Office requires payment before accepting court papers for delivery. Consequently, court staff are used to attempt to serve court papers and this effort is time consuming and onerous. Staff time is consumed and other court functions have to wait. Both the recurring jurisdiction questions, which often result in appeals, and the continuing delivery problems were

⁷ Constitutional questions are appealed directly to the Supreme Court for certification to the Constitutional Court.

frequently cited as two of the more vexing and time consuming problems troubling the Commercial Courts.

A third problem causing serious problems in the courts is the breakdown of discipline: many attorneys do not comply with court rules or court orders, and oftentimes employ delaying tactics that successfully prevent cases from moving forward to decision and disposition. Judges are ill-equipped to control this situation on two bases. First, the tools in their "toolbox" of sanctions and disciplinary measures are not sufficiently onerous enough to deal with truly recalcitrant attorneys. Second, most judges -- especially recent appointees -- are not sufficiently skilled in applying those tools that they do have.

All three of these problems require priority attention from the Ministry of Justice and the Parliament so that the work of the Commercial Courts can move forward in a timely manner. Delays have become endemic and have led to a loss of confidence in the courts, especially in the business community.

In addition to the problems of jurisdiction (competence), delivery (service of official court papers), and discipline breakdown, the Commercial Courts have the challenge of interpreting and applying numerous new commercial laws based on new economic and legal concepts. Many lawyers and judges are not familiar with and do not understand the array of new laws because they do not have any training in or experience with the new laws. The lack of knowledge and uncertainty in how to apply the new laws has further contributed to the confusion and delay in the Commercial Courts and the frustration which many in the business community have expressed about the slow and costly pace of litigation. Businessmen are agitating for a commercial court system that operates efficiently and "predictably." Judges and lawyers need training in the new commercial laws so that the laws can be applied consistently and speedily.

The situation has been further complicated by the loss of many experienced members of the judiciary in recent years because of the uncertainty surrounding the functioning of the State Judicial Council and the appointment process to the Bench. Many experienced judges left during the highly politicized period of the 1990s. Some were lured to private law practice or to the limited ranks of the notary publics because of the low judicial salaries, uncertainty of tenure (they had not received life appointments due to the political process) at the time and the prospect of making more money as a lawyer or notary. This loss of experienced judges came at a particularly bad time, when the increase in new laws made judicial stability even more important, and has hurt the courts over the past seven years.

The Commercial Courts are responsible for managing and maintaining the Company Registry. All legal entities are required to register at one of the Commercial Courts. From the consumers' perspective, the company registration process takes too long and is cumbersome. Efforts are underway to make the registry process more efficient and less time consuming. The company registry process is also a significant drain on the courts' resources, including unnecessary consumption of judges' time in reviewing and approving or rejecting the registry papers. A separate study of the registry process is underway but the Court Assessment team was interested in the amount of judicial time expended in registry related work since a lawyer, a notary, and a court clerk are involved in the preparation and review of the registry papers before the documents are presented to a judge. The Judicial Assessment Team has recommended a streamlined process where a judge's review could either be obviated or reduced, with more responsibility (and liability) being placed on the notary and

less on the judge for reviewing anything other than highly problematic registrations. Eventually, judicial involvement should be eliminated altogether.

Outside the registry area, the team examined a range of non-adjudicatory duties that might be transferred from the judges, particularly the Court President, to staff. The goal is to free judge time for judging and use court staff to perform most non-adjudicatory, administrative functions. Judges may be reluctant to reassign duties long performed by a judge even though the function does not require a judge or a judge's training and legal experience. The issue needs to be examined as part of an overall effort to make the courts as streamlined as possible so that cases can and will be decided expeditiously.

The Commercial Courts have exclusive jurisdiction in bankruptcy cases and the number of bankruptcies has increased steadily as Croatia transitions into a market economy. The bankruptcy caseload has created its own set of problems and issues. The modern concept of bankruptcy and the protection which bankruptcy can afford to both creditors and debtors has not really taken hold in Croatia yet. The prevailing concepts seem to be insolvency and liquidation rather than asset preservation, management, restructuring, and regeneration when feasible. To achieve the benefits which bankruptcy proceedings can produce in certain circumstances, the judges, lawyers, and parties need to understand the purpose and function of the law in a modern economy. Bankruptcy proceedings must be initiated before all assets are dissipated. Competent trustees are needed to assist the court and the parties during the proceedings so that a plan can be implemented which preserves assets, protects everyone's rights, and keeps businesses operating or allows a restructuring so that a new revenue producing enterprise can emerge.

Bankruptcy proceedings are usually not initiated in a timely manner and not with the goal or intent to salvage and regenerate. The pool of competent trustees has been very limited but new requirements with minimum qualifications and a test are now required to be approved as a trustee. Over time the pool of competent trustees should grow but it will take several critical years. In the meantime, the judges must spend a great deal of their time guiding the trustees, which only slows the judicial process and contributes to the delay and frustration problems.

Quality training programs are needed. Cooperation between the Ministry of Justice and the judges is needed. A willingness to take the initiative by the judges and assert control over court proceedings is needed. A willingness to try new techniques such as early case screening, assigning or diverting selected cases for expedited treatment, using available, authorized sanctions, and shifting non-adjudicatory duties to staff are all recommended actions to streamline the Commercial Court process and avoid the delays which currently plague the system and drain the economy.

2. High Commercial Court

The High Commercial Court (HCC) is the court of appeals for all cases decided by the Commercial Courts, other than constitutional issues, which must be certified to the Supreme Court for consideration by the Constitutional Court. It is located in Zagreb, and currently has 19 judges to hear appeals.

Case Management is done in accordance with the Rules of Court Procedure. The reception, docketing and case assignment process is performed by a single person who has been with

the courts for over 18 years. Decisions of the court are docketed immediately, and the case files are returned to the lower Commercial Courts at least weekly. However, docketing and assignment of new cases is currently backed up about 20 days. In March it was 15 days, and a year ago it was about a week. The cause of this delay is alleged to be twofold: the increased number of filings (currently more than double the number of two years ago) and the constant interruption from attorneys calling to find out the status of their cases (i.e., whether they have been docketed or decided yet, as those are the only two pieces of information that the office is permitted to give out). Which judge is assigned a given case is not disclosed until the decision is issued. Copies of the decisions are sent down to the lower court together with the case file, and the lower Commercial Courts distribute the decision to the parties.

Appeals from the HCC are taken to the Supreme Court from the lower Commercial Court where the petition is filed. First the lower court judge confirms the legal sufficiency of the appeal, then sends the case file with appeal petition to the HCC where it is noted and sent on to the Supreme Court. From a systems management standpoint this extra stop in the appeal could be eliminated, transferring any review that may be done at the HCC either upwards or downwards.

Case assignment is complex. Case assignment is under the purview of the President of the Court, but is generally carried out by staff. While ostensibly each judge is assigned cases in sequence as they come in, effort is made to assign cases based upon the expertise of the various judges, and to ensure that no judge receives too many difficult cases. The docketing clerk assured us that she had sufficient experience to identify difficult cases. One judge indicated that two years ago he used to do about 60% general civil litigation and 40% bankruptcy, but that now he was doing only bankruptcy cases, since they were by law "urgent."

Despite this "equalized" assignment of cases, some judges have virtually no backlog of cases, while others have over 300 to 400 cases. The distribution, excluding the Court President, is split fairly evenly between those who had less than 100 cases, and those who had over 200. In a sample month an individual judge was assigned between 4 and 50 new cases. There appeared to be no correlation between number of cases solved (decisions rendered) and either current backlog or new case assignments. This suggests that the claim that the large backlog of certain judges is due to their lack of attention to caseload, is only true in a minority of cases.

Cases are coming into the court at a rate 10% greater than they are being disposed of. Especially in bankruptcy, the number of appeals is rapidly increasing. There were 4,953 new appeals to the HCC in 1998 and 5,886 in 1999. The current backlog is 3,788, growing at about 40 cases per month. Approximately 35% of the cases are immediately affirmed, and take less than 30 days from docketing. Another 20% are disposed of in less than 3 months, 10% in less than six months, and 35% take more than six months. However, a lot depends upon which judge receives the case assigned. A straightforward reversal of a denial of a bankruptcy petition -- by law an urgent case -- can take 8 months. For judges who do not have additional administrative duties, the expected disposal rate is 250 cases per year, or approximately one per day of work. This is speedy, but does not deal with the need to research and analyze difficult cases. More realistically, because of administrative duties, and despite at least one judge doing over 350 cases in 1999, the average is just slightly over 200 cases per judge per year.

As the time to disposal shows, the backlog combined with the priority handling for bankruptcy appeals is having a significant effect on the court's ability to dispose of regular commercial cases. For backlog, 2.27% are 1998 cases (i.e., 17 months or older), with an estimated 50% of the backlog being more than six months old.

Perhaps the best long-term answer to the problem is to reduce the number of appeals through training of lower Commercial Court judges and attorneys who practice in commercial law. A high percentage of the issues raised on appeal are not novel. As a short-term measure, the court could have a legally trained assistant read the urgent (bankruptcy) petitions to identify cases that could be assigned to an expedited docket under the supervision of a single judge, so that judge time could be reserved for dealing with more difficult cases. A similar program for non-urgent cases would help reduce the accumulation of new backlog.

Another long term solution is to identify administrative duties that can be transferred to the administrative staff of the court. The court expressed concern that despite the doubling of the number of appeals over the last two years, they are not permitted to hire additional personnel in their Chancery. The Chancery now runs a dual-system, a stand alone computer with the docket and a paper based system in accordance with the Rules of Court Procedure. If the paper based system were allowed, by the rules, to be produced from the computer system (a relatively minor programming change) then the current staff level in Chancery would be adequate.

Full computerization of the court would help eliminate the docketing backlog, but absent the introduction of new case management techniques, like the one mentioned above, would not significantly speed up the resolution of cases.

Four volumes of the High Commercial Court decisions were published between 1994 and 1997, containing decisions mostly from 1994. Additional publications have not been made according to the Court President, because of lack of funds. Supreme Court President Milan Vukovic's 1994 order to cease publication of opinions did not seem to affect the High Commercial Court. In addition the Court's President for Review of Law (Predsjednik Odjela Pz), Andrija Erakovic, published in 1998 a law review article on the jurisdiction of the Commercial Courts, based upon actual cases. Interestingly enough, none of the cases cited were those published in the earlier volumes. HCC case summaries are not published in the *Narodne Novine* (official gazette).

3. Supreme Court & Constitutional Court

The Supreme Court is a third instance court for cases from the Commercial Courts. Appeals from the High Commercial Court are limited to cases with a stated value of over 100,000 Kuna (~\$11,850). Many lawyers and judges feel that this is too high a threshold. Before 1999 the threshold was only 3,000 Kuna (~\$350).

Selected opinions of the Supreme Court are published in abstract form in hardcopy, semi-annually. Last year (1999), only five Commercial Law abstracts were published in those volumes. The less-than-full opinion publication means a number of practice and legal issues are not clarified by publication. For example, in 1999 two Supreme Court cases dealt with the nature of stockholder rights. In one they declared that (at least) two types of stock are equally valid, namely those that can only be transferred on the books of the company, and those that can be transferred without such registration. The court indicated that each type

should clearly state on its face which type it was. The result of the case was that it was determined that a non-registered (on the company's books) shareholder was entitled to ownership rights in the stock. However, a second, later case indicated that a shareholder only had rights with respect to the company when the shareholder's ownership was registered in the company's books. Only a detailed review of the opinions would allow a practitioner to determine which "ownership" rights such a person had and which ones they did not.

When questions about the constitutionality of an act or law arise in any other court in Croatia, these matters are submitted up to the Supreme Court for initial review and transmittal to the Constitutional Court. The Supreme Court has 60 days to either transmit these to the Constitutional Court, or to deny them. If the 60 days passes without action, they are deemed denied. The Constitutional Court is limited to questions which are presented this way. Unlike the other courts, the Constitutional Court is not under the Rules of Procedure of the Ministry of Justice, nor are they appointed by the State Judicial Council. They report directly to the *Sabor* and are appointed directly by the *Sabor* to eight year terms. There are no requirements for overlapping terms. Decision making at the Constitutional Court is currently automated using Lotus Notes; however, the restricted nature of their practice means that the system, while quite functional, is nonetheless quite limited, and is not a viable candidate as a model for other courts. Lastly, the Constitutional Court can have dramatic impact on the Commercial Courts, such as when they found 1996 amendments to the Law on Courts to be unconstitutional. However, few, if any, commercial issues have gone up to the Constitutional Court; but ultimately, the independence of the Judiciary rests with them.

5. Municipal Courts

In contrast to the Commercial Court judges, the judges in the Municipal Courts do not see any jurisdictional problem or conflicts with the Commercial Courts. This is in large part because they are courts of general jurisdiction and because they have jurisdiction of all small value commercial cases as well as arguably over commercial contracts with persons not engaged in trade or business, such as universities, natural persons, etc. The Commercial Court judges, however, do recognize a potential jurisdictional overlap, as well as being concerned with the relative lack of experience of Municipal Court judges in commercial law areas. Forum shopping does not yet seem to be a problem.⁸

The Municipal Courts do transfer cases to the Commercial Court upon notice of a party's bankruptcy which is published in the official gazette (*Narodne Novine*). This was not observed as a problem by the Municipal Courts; however, it is a cause of delay from two factors. 1.) the case is delayed during the transfer process and until it can be reassigned to the new judge and 2.) since the Commercial Court was not the court of original jurisdiction, the newly assigned judge is less likely to have the expertise and experience necessary to bring the case to a rapid resolution. Because of the delay in reassignment, some businessmen and others believe that all such cases are on-hold until the bankruptcy is completed. In addition such transfer results in the loss of judicial efficiency where the transferred case is removed from a judge who has already spent time on the case. The major purpose for this transfer of cases seems to be to register the amount in controversy with the bankruptcy trustee in order

⁸ *Forum shopping is the selection of a particular court by an attorney or party, where there are overlapping jurisdictions, especially where a party believes they will get a more favorable decision from the selected court.*

that it may be reserved from any distributions made before all cases of the bankrupt company have been resolved. This function could be accomplished by a less drastic measure.

Municipal Court judges themselves expressed concern about the lack of material available on judicial practice with regard to their contract cases, and were generally interested and frequently enthusiastic about systems for the sharing of legal information. Aside from criminal practice, practice information about contracts and dealing with unpaid costs were high on their list.

Commercial cases in Municipal Court are treated the same as the rest of their civil docket, and are frequently backlogged as a result. Like their parallel in the Commercial Courts, most of the appeals take place in the execution phase of the case.

C. SUPPORTING INSTITUTIONS

Croatia has a solid foundation of institutions capable of supporting the modernization and development of the Commercial Courts. Some of these entities are recent creations, while others existed well before independence and are in a process to adjust to recent changes. As noted below, several of the supporting institutions can profit substantially from project assistance, but are fundamentally sound and well positioned to further the development of the courts.

A common theme was sounded repeatedly during interviews with members of the various organizations: there is much too little intercommunication among the complimentary organizations, and no institutionalized forum for analyzing issues of reform and modernization. The Ministry of Justice and the Croatian Law Center regularly put together multi-disciplinary teams and task forces, with representatives from the Bar, the Bench and the Law Faculties, but such interchange has been infrequent. Instead, there tends to be a competitive, sometimes defensive attitude among these organizations, with a consequent loss of impact that could be obtained through increased collaboration.

The Judicial Assessment Team recommends that most of the reform measures set forth in this report are suited to and should include collaboration between two or more of the supporting institutions below, and that work within the Commercial Courts and even the Ministry of Justice could profit immeasurably from careful inclusion of appropriate supporting institutions.

1. Association of Judges

The Croatian Association of Judges (CAJ) is an association representing approximately 90% of all judges. Membership is not mandatory, and the association is funded through nominal, voluntary fees.

The CAJ could be an important advocate and instrument for change in the courts, providing services to improve the technical quality of judges and court administration. Officers of the CAJ are aware that it is still a relatively weak institution for such a role, and needs assistance to provide training and other support to the judiciary. Indeed, others members of the legal community have characterized its current role as a labor union that seeks to increase salaries and benefits without insisting on increased performance.

According to CAJ officers, members, and outsiders, the CAJ could profit from assistance in providing more meaningful services to members. Toward this end, it is recommended that all many of the activities for assisting the judiciary be carried out in collaboration with or through the CAJ. If willing and interested, the CAJ could also undergo an assessment and possible reorganization to ensure that it becomes a meaningful organization capable of building respect for the judiciary through its services.

2. Bar Association

The Croatian Bar Association (the Bar) is a mandatory membership organization for all lawyers who wish to practice law in private practice or as in-house counsel for companies. Founded in 1929, it is the oldest bar association in Europe and was a model for mandatory bar membership in some American states. It is supported by mandatory fees.

The Bar has tremendous potential for change and influence. It is a natural conduit for conducting or overseeing Continuing Legal Education courses, for ensuring attorney discipline and for evaluating the performance of judges and providing pressure for change. The Bar is also a natural vehicle for developing and supporting specialized areas of practice such as bankruptcy, intellectual property, company law or even litigation, with the capacity to act as a counterpoint or to the Association of Notaries. The Bar has not yet developed this potential, however, and runs the risk of becoming marginalized if it does not define and execute its mandate in more professional manner.

Like the Croatian Judges Association, the Bar does not yet command enough respect from its membership or the public to be truly effective. Numerous lawyers expressed dissatisfaction with the level of benefits received for the fees they had to pay. Others suggested that the services offered -- such as courses -- were designed for an elite inner circle, not for the general membership, and that even these limited offerings were not announced effectively, but were simply posted at the association office for those who happened to come by.

The Judicial Assessment Team recommends that the various recommendations for creating a system of Continuing Legal Education (CLE), attorney discipline and pressure for change in the courts be offered in collaboration with or through the Bar. Lawyers unanimously supported the idea of regular CLE courses, and some even supported mandatory requirements. Such courses should not be the exclusive domain of the Bar, but rather the Bar should offer its own courses and certify courses offered by others, such as the Judges Association or even private sector organizations such as the American Chamber of Commerce (AmCham). Monopoly authority is likely to constrain the offerings.

It is also recommended that the Bar be assisted with its own internal assessment, if interested, including development of a mission statement, effective attorney discipline measures, and specialized committees and sub-committees. As to attorney discipline, the judiciary has expressed dissatisfaction with results to date when they have complained of attorney behavior. If the Bar does not provide a satisfactory disciplinary system for its members, it runs the risk of having discipline imposed from outside by the judiciary or the MOJ.

3. Law Faculties

Croatia has been providing professional legal education for over two hundred years. With Law Faculties in Zagreb (founded in November 1776, a few months after the American Declaration of Independence), Rijeka, Split, and Osijek, the country is fully self-sufficient in basic legal training. A number of professors are currently and have been involved in efforts to reform the courts and modernize the legal system, and have actively opposed the political manipulation of the courts during the 1990s.

On the other hand, the Faculties suffer from the same complaints leveled at other law schools around the world. Practitioners feel that the course offerings are too theoretical, and that most professors have little practical or useful understanding of the practice of law. Indeed, very few professors have practiced or continue to do so now. Law students and lawyers noted that they had never seen a pleading, contract, or other document used in the practice until they began their internships after graduation.

This complaint is not unique to the Croatian Law Faculties, but is heard even in American law schools, which tend to see themselves as more practical. The response in America has tended to be based on professional pride, in which law schools insisted that they were professional institutions, not "trade schools," and that the truly practical courses should be offered by the Bar Association or other institutions, not the law schools. Law faculties in many civil and common law jurisdictions do expose students to legal forms, pleadings and documents through legal writing and research courses, which Croatia currently lacks.

The Law Faculties are currently a paradox. They have tremendous intellectual talent within their walls, but do not enjoy sufficient respect because their graduates do not see that talent being used in a manner sufficiently meaningful to their own practice of law. Indeed, very few legal professionals supported use of professors in revising laws or practice related to the Commercial Courts. Consequently, these historically well established institutions now find themselves needing to prove their ongoing relevance to the legal community.

The Judicial Assessment team identified a number of professors who are quite practical in their understanding of these complaints, one of whom even offers a practical course including the use of common legal documents. It is recommended that the Faculties be included in activities to develop Continuing Legal Education programs or legal writing courses for lawyers and judges, and in providing commentary on the application of law and critiques of legal opinions. This involvement should be limited, however, to ensure that all courses are more focused on practice than theory. Otherwise, in the view of numerous lawyers interviewed, no one will be interested in attending the courses.

4. Association of Notaries

The Croatian Association of Notaries is, like the other legal associations, a mandatory membership organization supported by mandatory fees. The Association lobbies for matters related to limitation of practice and notary fees, and could be an excellent partner for reform in areas related to corporate registry in the Commercial Courts.

Notaries enjoy the privilege of being a legalized cartel for certain legal services. As is common in many civil law jurisdictions, the number of Croatian notaries is set by law, with positions opening only upon the death or retirement of an existing notary. This situation does not appear to impose any undue restraints at present, for notaries complain that there is not enough business for even this legally-limited number of practitioners. Not all of their services are subject to monopoly privilege, however, because lawyers and even unlicensed individuals are permitted to create or fill out many of the forms used in common transactions (including incorporation documents, leases and common sale agreements), with notaries retained only to affirm signatures or solemnize agreements.

For incorporation and other corporate documents, notaries do enjoy certain legal advantages through the pricing mechanism. All corporate filings must first be notarized, and the price charged for notarization is the same whether the notary prepares the documents, reviews them, or simply notarizes the signatures. In other words, a sophisticated company can incur up to three levels of expense when incorporating in Croatia. Normally, such a company may prepare its own documents in-house, then submit them for review by their corporate legal counsel, or simply have corporate counsel prepare them from the outset. The documents must then be reviewed and notarized, or simply notarized, prior to filing. The company must

pay separately for each step, and receives no discount on notarization fees if the documents were prepared or reviewed by corporate counsel.

While the expense of this requirement does not appear to unnecessarily restrain incorporation, the redundancies have been cited as a factor contributing to excessively slow incorporation procedures. As pointed out previously under the Legal Framework discussion, the law currently requires too many levels of review prior to incorporation: notaries, clerks and judges must all sign off before a document can be registered. By placing legal responsibility for the quality of documents on the notaries -- who are specialists in corporate filings -- the courts can substantially reduce their burden of review.

The potential contribution of the Notaries Association as a supporting institution for reform of the Commercial Courts should not be undervalued. A significant number of notaries are experienced judges who resigned or were forced out of office during the politicization of the courts. Their experience and insight into court practices and the interplay between the judiciary and the legal profession (both notaries and lawyers) should be captured in some way, perhaps through a notarial committee on court reform.

5. Chamber of the Economy

The Croatian Chamber of the Economy (frequently called the Chamber of Commerce) is a quasi-independent organization of all companies in Croatia. Membership and annual fees are currently mandatory, but there is a proposal pending to make membership optional.

The Chamber exists primarily to promote the interests of Croatian businesses both at home and abroad. In the legal sphere, it serves two very important functions. First, the Chamber houses and supports the Croatian Court of Arbitration, providing arbitrators and facilities for arbitration between domestic companies as well as between foreign and local investors. In addition, the Chamber is overseeing adoption of UNCITRAL arbitration rules and standards to ensure compliance with internationally recognized arbitration requirements.

The Chamber can also be an important focal point for private sector dissatisfaction with the crisis in the courts, serving as a pressure group for change. Chamber representatives are well aware of the problems with the courts, but the Chamber has not yet become an active advocate or lobbyist. It is a natural candidate to coordinate, support or lead a symposium on the impact of Commercial Court delays on the economy and businesses of Croatia in order to raise the level of focused demand for change. By including the Chamber in this and other programs relating to the Commercial Courts and commercial law generally, the organization can develop service offerings of value to its membership. In light of the possibility that mandatory membership requirements may soon be eliminated, the Chamber will need to provide such services in order to remain viable.

6. Croatian Law Center

The Croatian Law Center is a non-governmental, not-for-profit organization dedicated to promoting human rights and the rule of law in Croatia. The Center acts as an organizer for programs in this area, and offers experience in bringing together multi-disciplinary legal groups -- including lawyers, judges, and law professors -- develop solutions in these focus areas.

For the most part, the Law Center is not oriented to Commercial Court or commercial law issues. The current crisis in the Commercial Courts, as well as issues related to transparency and the rule of law, are relevant to its mandate, however, and could be areas in which the Center's involvement might be useful.

7. Private Sector Associations

Private sector associations, such as specialized business associations and privately supported chambers of commerce, act as drivers of change in most market economies. They tend to represent a significant percentage of the local and foreign investors, and thus have a very practical understanding of the barriers to trade and investment.

Croatia has few of these organizations at present. The strongest is the American Chamber of Commerce (AmCham), which has a strong private-sector orientation and a thorough understanding of the importance of such organizations in promoting change and reform. Moreover, the AmCham of Croatia is interested in participating -- through seminars, workshops, and other appropriate mechanisms -- in a program of reform for the Commercial Courts. Due to the respect they enjoy in the business community, the AmCham could provide solid value as a collaborator or lead promoter for public-private sector dialogue on the problems of the Commercial Courts.

Other bi-lateral and private chambers of commerce and business associations are still weak. Support for such organizations would be useful under some other project, but not in the context of Commercial Court effort.

8. Commercial Banks

Traditionally, banks and banking organizations are highly influential proponents of legal and commercial reform. In Croatia, the Banking Association is beginning to take on this role, primarily with respect to registry reform. Individual efforts of some of the larger foreign banks have been useful for obtaining some reforms or support for the banking industry, but no single entity has yet appeared as an established champion of reform.

It would be very useful to include several banks and the Banking Association in recommended activities aimed at increasing government and public awareness of the cost to Croatia of the delays and ineffectiveness of the Commercial Courts. Bank representatives have been very candid about the increased cost and collateralization of credit to Croatian borrowers, when loans can even be made available. This type of information must come to the attention of policy-makers and the general public in order to generate the support needed for long-term changes in the judiciary and the investment climate generally.

9. Print and Broadcast Media

Croatia has a large cadre of generally capable journalists, many of whom are quite independent in their thinking and reporting. At this time, however, few journalists have the legal or business understanding required for accurate and useful reporting on matters relating the commercial legal environment or commercial law generally.

It may be useful to include the media in the Legal Information component of this project in order to train and educate reporters in how to analyze cases and report on legal developments. For the Commercial Courts assessment, however, it should be sufficient to engage the media to report on the cost of Commercial Courts inefficiency on investment, jobs, and bankruptcy in order to focus public opinion and the government on the need for reform.

10. Center for Export Promotion

Organizations such as the Center for Export Croatian can provide a valuable service in collecting the complaints and opinions of foreign investors regarding obstacles to investment, then passing these observations on to policy makers. This role is important for educating policy makers on reasons why investors may not be coming to a country.

The Croatian Center for Export Promotion has been eliminated since the Judicial Assessment Team interviewed the director during the first week of this assessment. The functions may now pass to the Ministry of Economy, but at present there appears to be no institution with this function.

11. Computer Technology

The private sector boasts a large number of individuals and companies with expertise in the supply, installation and maintenance of computers and computer technology. There are ample programmers and technicians who can support any efforts to computerize the courts. Foreign specialists may be needed to implement specialized court management programs, but they could readily train local specialists to manage and maintain the system.

Likewise, there are substantial resources for creating and maintaining internet-based legal information systems. The Official Gazette (*Narodne Novine*) is already available on line, and is a very effective tool for legal research, with a solid foundation for potential expansion into legal opinions or other legal documents.

In short, Croatia can readily support any projects (such as the proposed World Bank assistance) requiring information and computer technology.

D. THE MARKET FOR REFORM

The demand for change in the court system is pervasive. Judges, lawyers, business people, the government and the general public share a consensus that there is a problem in the Commercial Courts and that something needs to be done. This demand is generalized, however, without a clear point of focus. In other words, those who are frustrated with the courts have not found a way to convert that frustration into action.

Until now, the demands of the judiciary have focused mostly on salary. The Judges' Association was able to negotiate salary increases in 1998. Several lawyers have noted that this raise has not been followed by improved service, and most judges would probably agree. Officials of the Judges' Association are candid about the need to provide additional training and support to the judiciary, recognizing a lack of tools to manage cases well.

Many judges feel that the real need to improve case processing is to hire more judges and more administrative staff. Although the Judicial Assessment Team tends to agree that the ratio of staff to judges is inadequate (1.5 staff to each judge, compared to 4+ in many other countries), it was not possible to determine whether any additional judges are needed. Indeed, according to work by Prof. Alan Uzelac,⁹ Croatia has one of the highest numbers of judges per capita in the world. From our end, however, the inherent inefficiencies in the judicial system made it impossible to determine whether the number of judges is appropriate; this determination must wait until the reforms noted in this report have been implemented and the courts are functioning better with existing resources.

Lawyers feel strongly that judges need training. On an individual basis, they also recognize their own need additional education and training to improve their knowledge and practice skills. Indeed, several lawyers stated that they would support the imposition of *mandatory* continuing legal education requirements for Bar membership. Representatives of the Bar Association expressed a somewhat different view, suggesting that the Bar, on the whole, has all the training it needs. Even so, discussions with lawyers indicate a substantial demand for assistance, not only for judges, but also for themselves.

Members of the business community with investments at stake also expressed high demand for reform, especially in the banking and international community. There is a shortage of associations, however, who capture and focus this demand. There is currently no representative banking association or foreign investors' council, both of which are important proponents of reform in many other countries. The American Chamber of Commerce has been somewhat successful at representing business interests, but there are no larger groups that could speak for the investment community on the whole.

In terms of "supplying the market", Croatia has numerous an educated, sophisticated population to draw from, but assistance is needed. The Ministry of Justice is reform minded and pragmatic, and should have a serious positive impact on the judicial system in the next few years. At the present time, however, the MOJ does not have sufficient human and financial resources to pursue all of the needed changes and has requested assistance from USAID, the World Bank, the European Union and others in this regard.

⁹ Uzelac, Alan, *Role and Status of Judges in Croatia* (2000), found at <http://jagor.srce.hr/~uzelac/>.

The Judges' Association should be an institution that can help to supply and direct the needed reforms, but will need assistance. Likewise, the Bar Association has experience in conducting courses and seminars, but not in reforming the system itself. Few lawyers expressed confidence in the Bar as an institution, and several complained that they did not receive value for their mandatory fees.

The Judges' Association and the Bar Association could become leaders in the change process, and the Judicial Assessment Team recommends that they be encouraged to participate fully in the USAID's programs of assistance. Indeed, most of the training can and should be done with their support and assistance. This will also help to strengthen them institutionally during this period of transition, and to learn to respond better to the needs and demands of their membership.

On the private sector side, the American Chamber of Commerce can also provide substantial value to USAID's assistance efforts by conducting seminars, workshops and other events that bring together the legal and business communities to improve understanding of Croatia's judicial needs as those needs relate to the business and investment climate. The Amcham has already been effective in some reform efforts.

Among Croatian business associations, the Chamber of the Economy sees itself as an effective reform-minded institution. The Chamber has occasionally drafted legislative proposals, and has a strong staff that could support judicial change. The Chamber may be entering a serious period of transition, however -- there is currently a proposal to remove the mandatory membership and fees. We recommend working with the Chamber through this transition to help define itself as a voice for business, specifically in its role in arbitration and, potentially, alternative dispute resolution.

The Law Faculties offer a supply of individuals who can and should be involved improving the efficiency and effectiveness of the Commercial Court. Several professors are highly pragmatic and reform minded, although many are accurately accused of being too theoretical to be of assistance those practicing law or rendering decisions. The reformers, however, have already been involved in change, and are strong advocates of practical solutions to the problems facing the courts. They can provide the intellectual capital and experience needed to reform the rules of civil procedure, and have already begun that process.

While Croatia can proudly point to its historical legal traditions, the legal community admits that there is a lack of experience in modern court administration. Several respondents suggested that this is the one technical area that Croatians cannot effectively supply. Instead, they seek outside technical specialists who can help re-design the underlying system and then modernize it through computerization.

The greatest void on the supply side at present is for a local counterpart with sufficient available resources to organize, oversee and implement a program of change. This is one reason that the MOJ is seeking foreign assistance. By working with the MOJ, the Judges' Association, the Bar and the private sector, it should be possible to implement a project of support that will have substantial positive impact on the Commercial Courts and the Croatian economy in the short and long terms.

Annexes

1. Order in the Court: A Proposal for Restoring Procedural Efficiency and Effectiveness in Croatia's Commercial Courts
2. Proposed Short-Term Assistance for the Commercial Courts
3. Strahan, Vjeran. "Table of Current Registration Books and Records Kept by the Commercial Courts"
4. Contacts made by the Judicial Assessment Team

ORDER IN THE COURT:

RESTORING PROCEDURAL EFFICIENCY AND EFFECTIVENESS IN CROATIA'S COMMERCIAL COURTS

Preliminary Recommendations for a Program of Assistance

Contents:

I. Background	1
II. Program Focus -- Restoring Order	2
III. Recommendations	2
A. General.....	2
B. Disciplinary Competence.....	3
C. Administrative Competence.....	5
D. Technical Competence to Adjudicate Decisions	10
E. Judicial Independence	14

I. Background

The Commercial Courts of Croatia have recently entered a period of crisis. Due to a number of historical reasons, delays and backlogs have increased to alarming levels, and commercial litigation seldom produces meaningful results within a meaningful timeframe.

To address this situation, the Croatian Ministry of Justice (MOJ) has requested assistance from United States Agency for International Development (USAID), as well as from other institutions such as the World Bank. USAID has contracted Booz·Allen & Hamilton to provide assistance to the Commercial Courts Croatia. A Judicial Assessment Team of three court specialists has worked for three weeks to help the Croatian legal community identify and analyze priority needs and solutions. Through extensive interviews with judges, law professors, court personnel, lawyers, businessmen, bankers, and government officials, and analysis of laws, the team has developed a number of proposals for mitigating the current problems and improving the overall operations of the judiciary in the near and long terms.

The team did not focus on technology: it is understood that the World Bank will be providing assistance to computerize the court system, so the Team focused on those areas of need that are independent of technology. The Team recognizes that technology can greatly improve some of the processes and the efficiency of the courts, but that even technology depends upon an appropriate underlying system.

II. Program Focus -- Restoring Order in the Courts

The immediate focus of the recommendations below is to help the Commercial Courts restore and establish order in judicial proceedings and processes. The recommendations are a series of short and medium-term activities that the Team believes will provide the necessary conditions to achieve this overall goal. Recommendations have been grouped to focus on four areas of competency:

- **Discipline:** The ability of the courts to control the proceedings and the parties to the proceedings in a timely and effective manner.
- **Administration:** The ability to carry out the overall mandate of the courts in an orderly and efficient manner.
- **Adjudication:** The technical competence of the courts to decide cases in accordance with law and established practice.
- **Self-government:** The ability of the courts to realize fully their constitutional responsibility as an independent branch of government.

It should be noted that these categories are not "pure" -- that is, some of the recommendations may fall into several of the categories. For example, a recommendation for printing all judicial decisions has an impact on both administration and adjudication. Even so, the Team found these categories useful for organizing the recommendations into a coherent framework.

Most of these recommendations can be "packaged" into groups of several, or carried out separately, depending on the needs of the courts, MOJ and other interested parties. With each recommendation is an indication of timing, term (short, medium or long) of each activity, and the legal authority required to carry out the activity (e.g., legislative amendment, MOJ directive). Each activity has been discussed with or recommended by a variety of Croatian stakeholders, and thus has a base of support. Of course, there may be resistance by some stakeholders (for example, notaries might oppose a suggestion permitting other lawyers to perform some of their current functions), but this is natural in any situation requiring change.

III. Recommendations

A. General

A1. Economic Impact of Commercial Courts Delays

<i>Timing:</i>	<i>Immediate</i>
<i>Term:</i>	<i>Short and Medium</i>
<i>Legal Authority:</i>	<i>n/a</i>

Many of the business and legal professionals that the Court Assessment Team interviewed expressed doubt that lawyers and judges sufficiently understand the negative economic impact caused by delays in the Commercial Courts. The business community cited lost jobs, lost investments and even bankruptcy as direct results of the delays. They also urged that

seminars and workshops be conducted to increase judge and lawyer awareness of these economic effects of inefficient judicial process. We recommend a series of multi-disciplinary seminars, as well as media coverage, of this issue in order to increase public-private sector dialogue and sensitize those responsible for the delays to the critical need for change. On a less formal basis, the business community should be encouraged to invite judges and lawyers to programs where business concerns are discussed to give the judges a better understanding of the business perspective and the importance of streamlining the litigation process by eliminating needless delays.

A2. A General Assembly of all High Commercial Court and Commercial Court Judges

Timing:	<i>Autumn</i>
Term:	<i>Long -- repeated annually</i>
Legal Authority:	<i>MOJ</i>

To begin the court reform process, the Court Assessment Team recommends that a meeting of all of the High Commercial Court and Commercial Court judges be convened later this year with plenary and break-out sessions focusing on the crisis of a lack of discipline in the courtroom, its causal relationship to recurring delay, and the resulting damage to the Croatian economy. The Assembly would address many of the topics set forth as separate recommendations below, but could package them to create a greater initial impact. Sessions would consist of both presentations and participant discussion on establishing and maintaining discipline in the courtroom, avoiding delays, identifying applicable rules for effective case management, delineating judicial training needs, and a review of the Rules of Court Procedure. A special session on legal research, analysis and opinion writing is recommended. Leadership and organizational management techniques should be offered for the Court Presidents because of the duties which they have. One goal of the program would be to inspire and convince Commercial Court judges to take a more active role in the administration of their courtrooms to reduce delays and manage caseload. This aspect could be specifically addressed through sessions on the role of a Commercial Court judge, how to be an effective judge and the power of judges to impose *sanctions* on attorneys who do not comply with court orders or rules. We recommend that the Assembly take place over three days, preferably in October.

The General Assembly should be the start of an on-going process of reform and improvement in the Commercial Courts. Assemblies should be convened twice a year so that the process of focused attention on solving problems in the Commercial Courts continues.

B. Disciplinary Competence

Much of the existing delay and backlog could be eliminated immediately, without further assistance, simply by restoring discipline in adhering to court rules, deadlines and orders, both by the attorneys and the judges themselves. Repairing this breakdown is the single most important short-term need.

B1. Discipline for Attorneys

Timing: *Summer commencement*
Term: *Short -- for research; Long -- for legislative amendment*
Legal Authority: *MOJ; Legislative Amendment*

Judges must be able to ensure compliance with court rules and avoid abuses and needless delays. The Ministry of Justice has the authority to issue rules by directive and authorize the courts to impose certain sanctions while other actions may require legislation. The courts and the Ministry of Justice need to jointly review and determine what tools are available to judges in their "toolbox" of responses and sanctions, what additional tools are needed, and which of those can be created through MOJ directive or require new legislation. A task force headed by Prof. Mihaeljo Dika has already made proposals to increase the type and number of tools, including civil contempt proceedings. The MOJ should empower a committee to determine which of these can be created through MOJ directive, then issue such a directive.

This should be followed by training of judges and notification of attorneys. Initial training can be introduced at the General Assembly, or through a separate program. If properly empowered to control the litigation process, the judges will be able to increase the efficiency and effectiveness of the courts by decreasing the unnecessary and vexing delays. Once instituted, the reforms should be reviewed in collaboration with the judges and the Bar Association, and a comprehensive reform package can be prepared, with any necessary legislative changes drafted and submitted to the *Sabor* for adoption. As an interim measure, the Bar Association should be encouraged to improve attorney discipline by responding more effectively to complaints of professional misconduct from the judges.

B2. Discipline for Judges

Timing: *Summer or Autumn Commencement*
Term: *Long -- repeated annually*
Legal Authority: *MOJ, possibly Law on Courts*

Many interview respondents expressed the perception that a significant number of judges do not work a full day and thereby contribute to the increasing backlog of cases and the lessening of respect for the judiciary. Judicial discipline is a sensitive subject. The State Judicial Council is responsible for judicial discipline but the Council is presently in some disarray and is being reconstituted. The Assessment Team recommends that the role of the Court President in disciplinary matters be explored by the Ministry of Justice and eventually with the State Judicial Council when the Council is fully functional. The Court President may be in a position to identify and help resolve potential problems. Both the Bar Association and the Judges' Association should explore the feasibility of conducting a periodic survey on judge performance. Certain judges might be recognized for excellence as an example of high judicial performance, or poor performers might be reported in the media. When the State Judicial Council again becomes active, the present law might be revised to require additional professional qualifications, perhaps including legal practice, and a period of proven performance before final appointment. [Note: If the number of verdicts rendered is used as a partial measure of judicial performance, then a case-weighting system needs to be adopted prior to evaluation.]

B3. Civics Program in School Curriculum; Judicial Public Relations and

Exposure

Timing: *Summer or Autumn Commencement*

Term: *Medium*

Legal Authority: *MOJ, Ministry of Education*

Judges and others complain that the judiciary does not enjoy sufficient respect. This perception is not altogether surprising for the simple reason that there is limited understanding of the role of judges and courts in Croatian life. That information void needs to be addressed in an on-going educational effort. The Bar Association and the Judges' Association are two logical entities to undertake a sustained campaign to include civics as a course in Croatian schools and to contact newspapers and media to encourage informative articles and programs about the courts. The campaign needs to highlight the role of the judiciary in ensuring a solid foundation for economic activity. A survey might be conducted on current attitudes toward the judiciary to better understand the average citizen's perspective on the courts. One recent law graduate commented that she thought 80% of Croatians believe that Croatian courts use juries because of the American TV shows depicting American courtroom scenes. As the courts become more public and more understood both appreciation for the important role of the courts may increase and expectations on court performance may increase. Increased performance expectations can provide both incentives and support for improved discipline in the courtroom. Eventually, the courts could profit from a program of public relations, and from an independent "court watch" program in which the private sector or media regularly cover and review court performance. At this stage of transition, however, such a program is probably premature.

C. Administrative Competence

C1. Re-defining Roles: Periodic Meetings of Senior Court Administrators

Timing: *3rd Quarter 2000*

Term: *Short -- for initial meetings; Long -- for ongoing program*

Legal Authority: *MOJ, possibly Law on Courts*

A number of administrative duties now performed by judges can be shifted to the staff. Before doing so, it is necessary to identify such duties through collaboration between judges and staff, then to train the staff in preparation for the shift. As a first step, the Administrative Team recommends a General Assembly of upper level court administrators (court secretaries) to address needs, receive training and exchange information. In preparation, it would be useful to create a committee or provide assistance to one or more administrators to identify areas they believe can be shifted, as well as identify training needs and potential problems in the shift. These issues could be vetted at the General Assembly (preferably held at the same time as the judges' General Assembly, as the courts would be closed anyway), and afterwards a joint task force could harmonize the records and create a comprehensive reform and training package. In addition, such meetings should be held annually, and smaller scale meetings even more frequently. The first General Assembly should also offer basic case management techniques, budgeting and personnel management sessions. This

recommendation relates to a subsequent recommendation on increased administrative and budget responsibilities that the courts should assume from the Ministry of Justice.

C2. Re-defining Roles: Job Descriptions for Court Administrators

Timing: *3rd or 4th Quarter Commencement*
Term: *Medium*
Legal Authority: *MOJ*

For the most part, current administrative staff in the Commercial Courts either have no written job descriptions or no access to them. As a part of overall reorganization, technical assistance should be provided to write job descriptions in the context of reorganizing the courts to be more effective and eventually for computerization. The Court Secretary of the Commercial Court of Zagreb might be an appropriate local leader in this activity, due to her background in human resource management. This is a relatively low cost, high impact activity that could substantially improve the functioning of the courts. Eventually, the judiciary should have its own law on employees, rather than being under the same one as the executive.

C3. Re-defining Roles: Delegating Ministerial Tasks to Staff

Timing: *4th Quarter 2000, 1st Quarter 2001*
Term: *Medium*
Legal Authority: *MOJ*

After defining tasks that should be shifted from judges, and identifying the roles of the administrative staff, it will be necessary to make the shift. The task of transferring administrative tasks from the judges to the court staff should be directed by the Commercial Court Presidents. There needs to be a systematic shift although there will be some variations from court to court based on staff capability and staff and judge personalities. In addition, some training and staff development will be necessary, and possibly some additional hiring.

C4. Re-defining Roles: Staff Development in Budget Management

Timing: *4th Quarter 2000, 1st Quarter 2001*
Term: *Medium*
Legal Authority: *MOJ*

One of the ministerial duties that can be shifted from judges to staff is budget management (with the Court President still legally responsible for controlling the budget). This shift will require financial management training for designated staff. The Ministry of Finance or some other government agency could be asked to provide the necessary budget training. Clerks will have to stay within allocated budgets and notify competent authorities when financial resources are insufficient to sustain court operations. Fiscally, the courts need to be run as a well-managed business. Courts will need flexibility to manage the budget in this manner, which will require a limited delegation of authority from the MOJ.

C5. Re-defining Roles: Company Registration Simplification

Timing: *Short-term commencement*
Term: *Medium*
Legal Authority: *Legislative Amendment*

Current practice and law creates a three to four step process for registration of companies. Lawyers draft documents; notaries review and approve documents; clerks review and approve documents; judges review and approve documents. Once signed by a judge the documents are finally approved for filing. We recommend revising the requirements for registration so that notarization alone is sufficient, subject to only minimal review by a court clerk. Only in exceptional situations would a registration be brought to a judge's attention for review. Liability for mistakes would pass to the notary. This streamlined procedure will reduce unnecessary redundancies in the approval process and thereby lower the cost of registration as well as decrease the time needed for the registration process. Judges' time will be freed for adjudicating cases.

C6. Re-defining Roles: Service of Documents; Delegation to Parties

Timing: *3rd Quarter Commencement*
Term: *Medium -- for implementation; long -- for legislative amendment*
Legal Authority: *MOJ, legislative amendment*

The Commercial Courts' growing caseloads, costs and lack of personal interest in court proceedings has resulted in extreme inefficiencies in the delivery of legal papers (pleadings, decisions, awards). We recommend delegating the responsibility for service of papers to the moving party or party in interest, with sufficient civil and criminal sanctions to control the possible abuse of process. An alternative would be to permit a party to choose between performing the service or paying the court an additional fee to deliver the documents. The fees would be based on actual costs. Some of the extreme delays might be avoided, faster and more certain forms of service would be adopted and court staff would be relieved of a time consuming function. Moving the costs of service to the parties will save the court money and should result in fewer delays if a party wants to proceed with the case.

C7. Re-defining Roles: Reducing Differences Between Rules and Practice

Timing: *Immediate*
Term: *Medium*
Legal Authority: *MOJ*

Court practices that could be used or adopted by judges to improve litigation are not being used. Existing rules of court are not being followed. There is a disturbing disparity between the practice being followed and the rule requirements. This disparity has led to a crisis of discipline in the courtroom and excessive delays. We recommend that this situation be addressed at the General Assembly (Recommendation A2) and through an ongoing program of judge and attorney education. Judges should clearly be empowered to use disciplinary tools against attorneys who fail to comply with court orders and rules and cause inappropriate delays. The Ministry of Justice may need to issue some policy directives to adapt practice

with court procedure. Judges need to take control and run the courts and use the authority that is available to them. Practices that contribute to recurring delays should be eliminated.

C8. Case Management: Case Screening System

Timing: *3rd Quarter or 4th Quarter commencement*
Term: *Medium*
Legal Authority: *MOJ, possibly legislative*

In many of the courts, cases are not pre-screened for complexity or priority processing which often results in unnecessary delays and frustrated parties, especially when anxious business people are involved with money being lost. Cases can be screened within each category of legal priority to determine which ones are relatively straightforward (debt collection), standard (possibly a contract dispute) or extremely complex or time-consuming (for example, some construction cases). We recommend that a legally trained staff person be assigned the duty of screening new case filings and categorizing cases for expedited or standard treatment. The complex cases should be brought to the attention of the Court President for direction, but all cases can continue to be assigned through a random selection system. Together with this new approach, it will be necessary to teach basic principles of case management to judges and staff alike, as this approach is radically different from the present passive case processing approach which allows the attorneys to dictate the pace of most cases rather than the court. Such training could be provided through the General Assemblies (A2 and C1), as well as through separate courses (including courses for new judges and staff).

C9. Case Management: Track System for High Commercial Court Appeals

Timing: *3^d Quarter Commencement*
Term: *Short*
Legal Authority: *MOJ*

The appellate process can be subject to inefficient case assignment that sometimes leads to extensive delays for cases that could and should be quickly resolved. We recommend an early appeal screening by a judge or a legally trained, experienced staff person to mark certain appeals for expedited treatment. The type and extent of appellate treatment will depend upon the initial appeal screening. Both an early screening of all new appeals and a commitment to priority treatment is needed by the High Commercial Court for the prompt decision of appropriately selected appeals. There is already some screening taking place on an informal basis; this system should be formalized.

C10. Case Management: Time Limitations for the Submission of Evidence

Timing: *3rd Quarter analysis*
Term: *Short -- for enforcing current rules; Long -- for legislative reform*
Legal Authority: *MOJ; amendment to current Code of Civil Procedure*

Court rules require that evidence be submitted when the initial pleading is filed along with a witness list. The practice is that evidence "dribbles in" and is admitted throughout the case. The absence of any time limitations for the submission of evidence leads to widespread abuse and extreme inefficiency. We recommend that existing rules governing the submission of pleadings, evidence and witness lists be enforced. This policy can be accomplished through judge training on case management and courtroom discipline. In addition, new cut-offs for reasonable periods for submission of evidence may have to be promulgated. Requests for late submission of evidence need to have a "reason for lateness" attached and be strictly evaluated. Appeals on evidentiary matters should also be limited to an appeal after the final decision, limiting interim appeals that cause delay in reaching a final decision. Similarly, evidence submitted during an appeal should be subject to strict scrutiny (*udubiti se*).

C11. Case Management: "One Size Fits All" Court Rules; Local Rules

Timing: *3d Quarter Commencement*
Term: *Varied, depending on court; overall medium term*
Legal Authority: *MOJ*

Court rules are currently issued by the Ministry of Justice and apply to all courts. A "one size fits all" approach limits initiative and the responsive capacity of individual courts or certain category of courts (Commercial Courts) to create appropriate rules. For example, the Rules of Court have more than 400 provisions, of which only 3 pertain exclusively to the Commercial Courts. The Ministry of Justice and the Commercial Courts need to work in a joint effort to identify those rules which should be universal and apply to all courts. (Eventually, the MOJ should delegate the authority to individual courts to adopt local rules of court within guidelines established by the Ministry in consultation with the Commercial Courts.) Local rules should be used to achieve better efficiency in processing cases based on local circumstances and needs. This concept is also discussed below in the section on Judicial Independence.

C12. File Management: File Retention Schedules; Closed File Disposition

Timing: *Immediate*
Term: *Short -- for initial disposition, Long -- for ongoing practice*
Legal Authority: *MOJ*

The Ministry of Justice can provide leadership and assistance in getting the courts to clear closed files when the files meet the retention schedule deadline. (Retention schedules already in the law are being ignored in some courts.) The practice of keeping closed files in excess of

mandatory retention requirements is overburdening filing systems and increasing the cost of storage. A local team could be hired to visit each court and assist in the records disposition effort instead of placing additional burden on the court staff. A file management specialist is needed to study the specific needs at each Commercial Court and make recommendations for both active and closed file storage. Space is at a premium at the courts and anything that may free space to meet other needs would be a benefit to the court.

C13. File Management: Standardized Size Requirements for all Pleadings and Forms

Timing: *Immediate*
Term: *Short (permanent change)*
Legal Authority: *MOJ*

Record keeping at the courts is burdened by a wide variety of paper sizes and shapes, making it physically difficult to store and manage files. On a priority basis, we recommend that the MOJ issue a directive requiring all submissions to be made on standard A4 paper, with implementation taking place over the next six months. An announcement needs to be prepared and widely disseminated to the Bar and the public that the new standard size paper will be required no later than January 1, 2001. Smaller papers, such as official receipts, should be glued or stapled to A4 paper. (A similar requirement was successfully adopted by the U.S. Federal Court System several years ago, on a much larger scale.)

C14. File Management: Bar Coding for Case Files

Timing: *Dependent on World Bank or other equipment program*
Term: *Dependent on World Bank or other equipment program*
Legal Authority: *MOJ*

The existing manual tracking system for case files is inefficient and time consuming. Bar coding would help in file management if the files were centrally maintained. As previously noted, the case files which are now dispersed throughout the courthouse in judges' chambers would be more efficiently kept if aggregated in a central file area under the supervision of the Court Secretary or a chancellor. Even if one central location for central file storage cannot be achieved, a consolidation in a limited number of staff monitored areas should be sought for better file management. After full computerization of the courts, a bar code system would be helpful in tracking files removed from the staff managed file areas.

D. Technical Competence to Adjudicate Decisions

The Croatian judiciary is currently faced with a large number of new, inexperienced judges, as well as a large number of new, untested laws. Together, they have caused numerous delays and have diluted (lowered) the legal quality of decisions. In addition, there are no official divisions outside of Zagreb within the courts for specialized areas of law, such as bankruptcy and intellectual property. As a consequence, each judge is theoretically supposed to be able to rule competently on all areas of commercial law, which is simply not possible.

D1. Legal Writing and Methodology; Better Legal Opinions

Timing: *3rd or 4th Quarter commencement*
Term: *Long*
Legal Authority: *MOJ*

The quality of legal opinions and legal papers as drafted by judges and lawyers is generally considered to be inadequate, thus affecting the efficiency of the courts and the quality of the decisions being issued. To address this problem, we recommend: first, the creation of separate continuing legal education-style seminars for judges and lawyers to provide practical training in legal writing and methodology; and second, the creation of a legal writing and methodology course at the university that will be mandatory for admission to the Bar for new attorneys. Interested members of the law faculty should be invited to participate in the effort to develop such a writing and methodology course.

D2. Create Specialized Divisions within the Commercial Courts

Timing: *3rd Quarter Commencement*
Term: *Medium*
Legal Authority: *MOJ, Sabor (Law on Courts)*

Judge and staff specialization already occur in some of the Zagreb Commercial Courts. A lack of specialization in some of the other courts in technical legal areas leads to delays and inappropriate decisions. Creating specialized divisions in the Commercial Courts based in part on existing de facto divisions will help expedite priority case categories such as bankruptcy cases.

D3. Forms Review; New Forms Design

Timing: *3d Quarter commencement*
Term: *Medium*
Legal Authority: *MOJ*

Although a large, three-volume set of forms already exists for common legal forms, appropriate forms for new and recently changed laws do not exist. More importantly, specific forms are needed in bankruptcy, especially for trustees and for interim orders. An excess level of effort is therefore required by lawyers and judges in analyzing and deciding cases. A process to create standardized forms by adapting forms from relevant jurisdictions and create new forms where appropriate will facilitate the case-flow process. Another commercial law team is scheduled to concentrate on forms review and revision.

D4. Publication of all Legal Opinions

Timing: *Immediate commencement*
Term: *Long, with phased approach*
Legal Authority: *MOJ, Supreme Court*

Under the Civil Law approach, legal practice has value to judges and lawyers attempting to understand the proper application and interpretation of law. Croatia desperately needs a body

of legal reasoning in order to adjust to and adapt the new laws adopted in the past 10 years, but judicial decisions are seldom published. When economically feasible, all court decisions should be published and made readily available to the public. The first priority, however, is to provide an environment for judges to discover the importance of publication. Creating this environment will require a body of published decisions, which should begin with the publication and wide dissemination of *all* appellate opinions. This initial publication effort should include the Constitutional Court, the Supreme Court, the High Commercial Court, and the County Courts when they function as a second instance court. At present, courts do not publish all opinions but only selected excerpts from some cases, which give limited guidance for interpreting the proper application of law and procedure. In time and with the spread of automation throughout the Croatian courts, all court decisions -- except for those sealed by law -- should be released and electronically disseminated for public review.

D5. Availability of Court Related Information

Timing: *3d Quarter 2000 for High Commercial Court*
Term: *Medium*
Legal Authority: *MOJ*

Existing information on the courts, including court decisions (as noted above), is quite limited. Much of what does exist is in expensive hard copy versions. We therefore recommend the development of court web sites on a priority basis to make this information available to the legally community and the public. Decisions, rules of court, rules of procedure, forms and other reference material can be readily available on a web site. Although some of this information is currently available through the *Norodne Novine* web site, the quantity and accessibility are not sufficient for the needs of the legal community. Using local technical assistance, a web site can be developed for the High Commercial Court within a few months, with other courts added over the course of one year with no equipment purchase necessary. The site would reduce the cost of producing legal opinions and reduce the need for phone calls to court staff by attorneys.

D6. Public Accessibility to all Civil Court Documents

Timing: *2001*
Term: *Medium*
Legal Authority: *MOJ (already legal in theory)*

Civil court pleadings and filing are not currently available to the legal community or the public. Only the parties are given access to their case file. We recommend amending the law or promulgating a new policy to ensure that all court documents are publicly accessible with the exception of documents sealed by court order on motion and proof by one of the parties of exceptional need. This recommendation involves switching to a central file system to be successful and making court documents available to the public upon request. Currently, judges retain hundreds of case files in their offices for indefinite periods of time. Public access to case files with the court files spread throughout the courthouse would be very difficult. Even without public access to court files, file management is inefficient under the present "system." Space and money limitations are very real problems that must be overcome

to implement a central file system. Converting to a central file system will be a daunting challenge, but must be done. Once accomplished, the Ministry of Justice and the courts need to adopt an open file policy which should be publicized so that lawyers, journalists, and members of the public know that case files are public information and can be accessed.

D7. New Judges Orientation Program

Timing: *3rd or 4th Quarter commencement*
Term: *Long*
Legal Authority: *MOJ*

A structured program for all new judges joining the High Commercial Court and the Commercial Courts should be designed and offered to each new judge. The program should help orient the new judge to the court and how a judge functions. The Presidents of the Commercial Courts should discuss the new judge orientation program and appoint a committee of judges to design and implement the program.

D8. Commercial Law Exposition

Timing: *3d Quarter for Bankruptcy, others phased in*
Term: *Long*
Legal Authority: *n/a*

Commercial law is not well understood by all of the judiciary and many lawyers due to its relative newness, and the newness of many concepts. This lack of knowledge of the legal and commercial framework for commercial law is undermining the enacted laws and slowing court practice. The Assessment Team believes that an on-going series of seminars and workshops is needed to provide the necessary understanding of the laws and how to apply them. Franchise law, intellectual property, bankruptcy, securities (share-holding), competition, economic and business concepts need to be presented both in broad outline and in depth. A joint MOJ-Judges Committee is needed to plan the suggested first meeting of the Commercial Court General Assembly and for a series of subsequent workshops on how to interpret and apply the new commercial laws. However, the crisis in bankruptcy should be addressed immediately, with a course and case study prepared and presented as early as practical -- possibly even July. It is not sufficient, however, to have a single bankruptcy course, no matter how intensive. Instead, a series of courses should be implemented, starting with fundamental basic concepts and building over time to more difficult issues, such as piercing the corporate veil. Over the longer term, the Judges' Association and the Bar Association need to develop continuing legal education programs for their members. A transition Training Coordination Committee or a joint Education Committee with Ministry of Justice, Judges' Association, and Bar Association members is needed to organize and spearhead the CLE proposal for commercial law training for judges and lawyers.

D9. Joint Education with the Business Community

Timing: *3rd Quarter for bankruptcy; 2001 for other*
Term: *Long*
Legal Authority: *n/a*

Other recommendations have been made to broaden the scope of judicial and legal education and have business and financial perspectives interspersed in future legal education programs. The Ministry of Justice, the Judges' Association, and the Bar Association all need to take steps to ensure that education programs have a broad perspective and include business and financial concepts.

E. Judicial Independence

The Croatian judiciary is in a period of transition. Once independent, it became an arm of the executive branch from 1945 until 1990, when it was again declared independent under Article 4 of the Croatia Constitution. Legal independence and practical independence, however, are not the same, and the courts are slowly developing the skills needed for independent planning, management and budgeting, activities that are currently handled in large part by the Ministry of Justice. Over time, it is expected that the courts will become increasingly self-reliant and independent in practice. To achieve this will require assistance.

E1. Financial Management

Timing: *3rd or 4th Quarter commencement*
Term: *Medium and Long*
Legal Authority: *MOJ, possibly legislation*

Court administrative staffs need to be trained in budget preparation and management. At present, there is little capacity for financial management, and budgets have been overspent with no provision for repayment of debtors. Even without fiscal independence from the MOJ, this situation cannot continue. Eventually, the courts also need to be able to project their financial needs and seek appropriate funding directly from the legislature. In the near term, however, technical assistance is needed to build financial management skills.

E2. Joint Consultative Body with the Ministry of Justice

Timing: *2001*
Term: *Long*
Legal Authority: *MOJ, eventually legislative amendment*

Existing legislative and rulemaking procedures do not formally take into account the differing needs and perspectives between an executive agency and the judiciary. Eventually, the judiciary will need to become responsible for its own rules. As an interim measure, a joint consultative group with the Ministry of Justice would be a helpful and productive step to confer and build capacity in budgetary, administrative and legislative matters in the courts.

E3. Ministry of Justice Delegation of Authority to the Courts

Timing: *late 2001*
Term: *Long*
Legal Authority: *Sabor, MOJ*

At present, the Croatian courts do not have the authority to determine their needs and respond to the demands of existing conditions without the prior specific authorization of the Ministry of Justice. This system causes inefficiencies, greater expense, and delays in adapting to needs. Initially, the Assessment Team recommends that the Ministry of Justice delegate responsibility for basic purchases within preset limits and delegate the authority to the courts to promulgate local rules of court. The short term goal is to begin the delegation process and empower the courts to assume more responsibility but the long term goal is for the judiciary to develop the internal capacity to manage its own affairs and set its own administrative policy. The recommendation is for an initial delegation by the Ministry of limited procurement authority and local rule making authority for effective case management.

USAID CROATIA COMMERCIAL COURT ASSESSMENT, JUNE 2000
ANNEX 2: PROPOSED SHORT-TERM ASSISTANCE FOR THE COMMERCIAL COURTS

Issue	Response	Impact
Courtroom Discipline: Substantial, unnecessary postponements creating unacceptable delays and backlog due to ignorance of rules and lack of sanctions; delays result in substantial economic damage to Croatia economy	<ol style="list-style-type: none"> 1. Determine all sanctions available under existing law, including expanded interpretations 2. Train judges in how to restore and maintain procedural discipline by applying sanctions 3. Train or notify lawyers of compliance requirements 4. MOJ issues directive to apply all sanctions rigorously 	<ol style="list-style-type: none"> 1. Reduce unnecessary delays and dramatically reduce processing time 2. Increase professional status of judges and courts 3. Improve case management skills for judges and lawyers 4. Decrease negative economic impact -- including bankruptcy filings -- of excessive delays
Disciplina u sudovanju: znacajna; nepotrebna odgaganja stvaraju neprihvatljivo zaostajanje i odugovlacenje zbog nepoznavanja pravnih pravila i nedostatka sankcija; odugovlacenje uzrokuje znatnu ekonomsku stetu hrvatskom gospodarstvu	<ol style="list-style-type: none"> 1. Odrediti sve sankcije koje omogucava postojeci zakon, ukljucujuci prosireno tumacenje 2. Poduciti suce kako vratiti i odrzati disciplinu sudskih postupaka primjenjujuci sankcije 3. Poduciti ili obavijestiti pravnike o udovoljavanju zahtjevima 4. Ministarstvo pravosuda izdaje upute kojima se strogo primjenjuju sve sankcije 	<ol style="list-style-type: none"> 1. Smanjiti nepotrebna zakasnjenja i znacajno smanjiti vrijeme procesuiranja 2. Unaprijediti profesionalni status sudaca i sudova 3. Poboljsati vjestine vođenja slučaja u sudaca i odvjetnika 4. Umanjiti negativni ekonomski učinak velikih zakasnjenja - ukljucujuci ona u vezi stecajnih spisa
Appellate Backlog: Backlog of appeals in High Commercial Court includes approximately 35% very simple cases which are taking months or even years to decide, making final decisions costly for litigants and Croatian economy	<ol style="list-style-type: none"> 1. Train a legal expert and administrator to sort cases by complexity 2. Train legal expert to make preliminary determination and recommend decision to judge 3. Assign one judge to review and rapidly decide all expedited appeals 4. Long-term: maintain system of sorting and expediting simple appeals 	<ol style="list-style-type: none"> 1. Short-term: Eliminate 35% of backlog within 6 months 2. Establish a body of appellate decisions to reduce number of future appeals 3. Reduce negative economic impact of unnecessary delays 4. Increase respect for courts 5. Long-term: Increase efficiency of appellate procedure
Zaostajanje žalbi: zaostajanje žalbi na Visokom Trgovackom sudu ukljucuje otprilike 35% izrazito jednostavnih slucajeva za cije su presudivanje potrebni mjeseci ili cak godine, sto konacne presude cini skupima za parnicne stranke i hrvatsko gospodarstvo	<ol style="list-style-type: none"> 1. Poduciti pravne strucnjake i administratore kako sortirati slucajeve prema slozenosti 2. Poduciti pravne strucnjake kako donijeti preliminarnu odluku i predloziti odluku sucu 3. Postaviti jednog suca koji ce pregledavati i brzo odlucivati o svim zalbama "brzom linijom" 4. Dugorocno: odrzati sustav sortiranja i obradivanja jednostavnih žalbi 	<ol style="list-style-type: none"> 1. Kratkorocno: umanjiti zaostatke za 35% u 6 mjeseci 2. Stvoriti zbirku odgovarajucih sudskih odluka kako bi se u buducnosti smanjio broj žalbi 3. Smanjiti negativan ekonomski učinak uzrokovan nepotrebnim zakasnjenjima 4. Povecati ugled sudova 5. Dugorocno: Povecati efikasnost procesa žalbe

USAID CROATIA COMMERCIAL COURT ASSESSMENT, JUNE 2000
ANNEX 2: PROPOSED SHORT-TERM ASSISTANCE FOR THE COMMERCIAL COURTS

Issue	Response	Impact
Lack of essential materials: For historical reasons, few High Commercial Court decisions are published, leading to critical lack of information for judges and lawyers in how to apply law correctly, resulting in unnecessary lawsuits and appeals	<ol style="list-style-type: none"> 1. Place all new High Commercial Court decisions on line through internet, as they are published 2. Place existing unpublished cases on line over time <p>Note: No equipment purchase necessary</p>	<ol style="list-style-type: none"> 1. Increase the capacity of judges and lawyers to apply law correctly 2. Decrease number of appeals 3. Provide accessible body of appellate case court for reference by entire legal community
Nedostatak potrebnih materijala: Zbog povijesnih razloga, izdano je samo nekoliko odluka Visokog Trgovackog suda, sto dovodi do kriticnog nedostatka informacija za suce i pravnike, te ih onemogucuje da na ispravan nacin primjenjuju zakone, sto dovodi do nepotrebnih parnica i zalbi	<ol style="list-style-type: none"> 1. Sve nove odluke Visokog Trgovackog suda predstaviti na internetu, cim su objavljene 2. Postojece neobjavljene slucajeve tijekom vremena takoder predstaviti na internetu <p>Opaska: nije potrebno nabavljati dodatnu opremu</p>	<ol style="list-style-type: none"> 1. Povecati sposobnost sudaca i odvjetnika kako bi se pravilno primjenjivali zakoni 2. Smanjiti broj zalbi 3. Stvoriti pristupacno sudsko tijelo namijenjeno zalbama za cijelu pravnu zajednicu
Court Management: Zagreb and other court archives are overloaded with old unmanageable files, and are running out of storage space; as a result, active files are often difficult to find or organize (approximately 50% of old files are being held beyond legal requirements)	<ol style="list-style-type: none"> 1. Provide a short-term team to identify all files that are no longer required by law 2. Destroy the expired files 3. Adopt and enforce mandatory paper size (A4) requirements for all new files to make them manageable 4. Identify warehouse space for archiving inactive files for all courts 	<ol style="list-style-type: none"> 1. Increase available filing space for active files by at least 50% without further purchase 2. Decrease lost and missing file problems 3. Prepare for computerization of courts 4. Foster a positive attitude for change with a simple, visible success
Vodenje sudovanja: Zagrebacka, kao i ostale arhive, pretrpane su starim nepotrebnim spisima, te nedostaje mjesta za pohranjivanje; aktivne je spise stoga cesto tesko pronaci i organizirati (zadrzava se otprilike 50% starih spisa, premda to zakon ne zahtijeva).	<ol style="list-style-type: none"> 1. Organizirati tim, za kraci vremenski period, koji bi identificirao sve spise koje zakon vise ne zahtijeva 2. Unistiti sve spise kojima je istekao rok 3. Za sve nove spise potrebno je usvojiti format A4, kako bi se sa spisima lakse rukovalo 4. Identificirati prostor za arhiviranje neaktivnih spisa za sve sudove. 	<ol style="list-style-type: none"> 1. Povecati prostor za arhiviranje aktivnih spisa za barem 50% bez dodatnih troškova 2. Smanjiti probleme nestalih i zagubljenih spisa 3. Pripremiti kompjuterizaciju sudova 4. Usvojiti pozitivni pristup za promjene s jednostavnim i vidljivim uspjehom

USAID CROATIA COMMERCIAL COURT ASSESSMENT, JUNE 2000
ANNEX 2: PROPOSED SHORT-TERM ASSISTANCE FOR THE COMMERCIAL COURTS

Issue	Response	Impact
Bankruptcy Practice: Bankruptcy cases are often unnecessarily complicated and delayed due to uncertainty about law and procedures, all of which are new	1. Create a practical bankruptcy law seminar for judges and lawyers to examine law, rules, procedures and economic impact, including analysis of a controversial case 2. Conduct the course at least annually, with the first course in September	1. Improve the skills of judges and lawyers 2. Reduce the time needed to process cases 3. Increase the effectiveness of bankruptcy for restructuring companies
Stecajna praksa: Slucaeji stecaja se cesto nepotrebno otezavaju i odugovlace zbog nedovoljnog poznavanja novih zakona i postupaka.	1. Organizirati seminar o primjenjivanju stecajnog zakona, kako bi suci i odvjetnici mogli proucavati zakone, pravna pravila, postupke i ekonomski utjecaj, ukljucujuci analizu spornih slucajeva 2. Provesti tecaj barem godisnje, s prvim terminom u rujnu.	1. Osnaziti postojeca znanja i sposobnosti sudaca i odvjetnika stjecanjem novih saznanja 2. Smanjiti vrijeme potrebno za procesuiranje slucajeva 3. Povecati efikasnost stecaja za poduzeca koja su u preustroju

Current registration books and records kept by the Commercial Courts *

Table of current registration books, supplemental books and records follows:

Table 1.: Books and records under the responsibilities of the president's office:			
Form number	Description	Court Rule Book	Type
1	Personal record of the lay judge	46.	Supplemental book
1	Records of lay judges activities – second page of the Personal record of the lay judge	46.	Supplemental book
5	List of official journeys	75.	Supplemental book
6	List of seals and stamps	101.	Supplemental book
59	Registration book for court management (<i>Su</i>)	324.	Registration book (president's office)
59	Registration book for confidential documents (<i>Pov, Str.Pov</i>)	326.	Registration book (president's office)
60	Registration book for execution of penalties (<i>Sulk</i>)	329.	Registration book (president's office)
79	Index of cases to the registration book for court management (<i>Su</i>)	294.	Index to the registration book (president's office)
80	Index of persons to the registration book for court management (<i>Su</i>)	294.	Index to the registration book (president's office)
94	List of circular letters	355.	Supplemental book
	List of court decisions	254.	Supplemental book
	List of registration books	298.	Supplemental book
	Personal record of the judge		Supplemental book

Table 2.: Books and records under the responsibilities of the judge or court advisor:			
Form number	Description	Court Rule Book	Type
12	Caseload list – first page of the Personal diary	128.	Personal book
17	Personal diary of the assigned judge	180.	Personal book

Table 3.: Books and records under the responsibilities of the judge or registration book department and judge / court advisor:			
Form number	Description	Court Rule Book	Type
14	Case folder – general (white)	152.	Case folder
14b	Case folder – litigation (green)	152.	Case folder
14c	Case folder – commercial crime (yellow)	152.	Case folder

* Prepared by Vjeran Strahonaj, for the World Bank, Spring 2000.

Table 4.: Books and records under the responsibilities of the registration book department:			
Form number	Description	Court Rule Book	Type
2	List of invited lay judges	46.	Supplemental book
3	Book of sent or supplemented cases (form 3), Art. 60., 349.	60., 349.	Supplemental book
4	List of activities performed in the “courts day” on other location	66.	Supplemental book
7	List of exemptions from obligation to pay the fee for court activities	112.	Supplement to the case folder
8	List of advance payments and settled court activities	116.	Supplement to the case folder
9	List of court activities settled from the court’s budget	117.	Supplement to the case folder
10	Statement that the party was present at the court (supplement to the petition for the compensation of lost salary)	119.	Statement issued to the party
11	List of issued statements that the party was present at the court	121.	Supplemental book
13	Statement that the pleading is filed	147.	Statement issued to the party
15	Case docket (list of pleadings)	152.	Case folder
16	Internal inventory receipt book	163.	Supplemental book
18	Case movement notebook	197.	Supplemental book
19	Delivery book for mail	205., 348.	Supplemental book
20	Delivery book for location	205., 348.	Supplemental book
21	Book of deliveries entrusted to the deliverer	205.	Supplemental book
22	Event/activity schedule	216.	Supplemental book
23	Supplemental report (commercial crime)	226.- 229.	Supplement to the case folder
24	Supplemental report (litigation)	226.- 229.	Supplement to the case folder
25	Supplemental report (revision in litigation)	226.- 229.	Supplement to the case folder
26	Order to issue the archived case	244.	Supplement to the case folder
27	List of cases issued from the archive	244., 353.	Supplemental book
31	Registration book for diverse commercial disputes (arbitration, petition for suspension on the disposal of debtor’s assets before the accusation, agreements between parties noted at the court etc.) (<i>R2</i>)	314., 315.	Registration book
32	Registration book for litigation (<i>P</i>)	310.	Registration book
33	Registration book for payment orders (<i>Pl</i>)	311.	Registration book
35	Registration book for enforcement based on the seizure paper (<i>Ovr</i>)	313.	Registration book
35	Registration book for enforcement based on the authentic document (<i>Ovr</i>)	313.	Registration book
36	Registration book for diverse cases proceeded out of litigation (certified private acts and agreements reached outside the court, notary acts, excerpts and copies) (<i>R1</i>)	314., 315.	Registration book
37	Registration book for legal support to other domestic	316.	Registration book

Table 4.: Books and records under the responsibilities of the registration book department:

Form number	Description	Court Rule Book	Type
	and international courts and authorities (<i>Pom</i>)		
44	Registration book for violation of commercial law / economic crime (<i>Tk</i>)	308.	Registration book
45	Registration book for investigations in violation of commercial law / economic crime (<i>Tki</i>)	309.	Registration book
46	Registration book for bankruptcies (<i>St</i>)	320.	Registration book
46	Registration book for liquidations (<i>L</i>)	321.	Registration book
66	Index to the registration book for diverse cases proceeded out of litigation (certified private acts and agreements reached outside the court, notary acts, excerpts and copies) (<i>R1</i>)	288. – 290.	Index to the registration book
66	Index to the registration book for diverse commercial disputes (arbitration, petition for suspension on the disposal of debtor's assets before the accusation, agreements between parties noted at the court etc.) (<i>R2</i>)	288. – 290.	Index to the registration book
68	Index to the registration book for litigation (<i>P</i>)	290.	Index to the registration book
68	Index to the registration book for payment orders (<i>Pl</i>)	290.	Index to the registration book
69	Index of companies to the registration book for violation of commercial law / economic crime (<i>Tk</i>)	290.	Index to the registration book
69	Index of companies to the registration book for investigations in violation of commercial law / economic crime (<i>Tki</i>)	290.	Index to the registration book
70	Index of responsible persons (managers) to the registration book for violation of commercial law / economic crime (<i>Tk</i>)	290.	Index to the registration book
70	Index of responsible persons (managers) to the registration book for investigations in violation of commercial law / economic crime (<i>Tki</i>)	290.	Index to the registration book
73	Index to the registration book for bankruptcies (<i>St</i>)	290.	Index to the registration book
73	Index to the registration book for liquidations (<i>L</i>)	290.	Index to the registration book
74	Index to the registration book for enforcement based on the seizure paper (<i>Ovr</i>)	290.	Index to the registration book
74	Index to the registration book for enforcement based on the authentic document (<i>Ovr</i>)	290.	Index to the registration book
81	Index to the registration book for execution of penalties (<i>Sulk</i>)	294.	Index to the registration book (president's office)
84	Book of suspended sentences (<i>Kuo</i>)	295.	Supplemental book
89	List of seized goods (<i>Pp</i>)	295.	Supplemental book
90	List of executions of seizure entrusted to the bailiff	295.	Supplemental book
92	List of punished or fined companies for violation of commercial law / economic crime	297.	Supplemental book
93	List of punished or fined responsible persons (managers) for violation of commercial law / economic crime	297.	Supplemental book
95	Receipt issued by the bailiff	395.	Statement issued to the party

Table 4.: Books and records under the responsibilities of the registration book department:

Form number	Description	Court Rule Book	Type
96	Inventory list of movable properties and rights and acquired mortgage rights	400	Supplement to the case folder
97	Book for received valuable shipments	410.	Supplemental book
98	Delivery book for valuable shipments	410.	Supplemental book
99	Book of paid postage	412.	Supplemental book
100	Delivery note (white)	206	Supplement to the case folder
101	Delivery note – on hands (blue)	206	Supplement to the case folder
102	Envelope with receipt note (white)	206	Supplement to the case folder
103	Envelope with receipt note – on hands (blue)	206	Supplement to the case folder
104	List of documents, announced on the court board	297.	Supplemental book
105	List of declared claims	351.	Supplemental book
106	List of verified claims	351.	Supplemental book

Table 5.: Books and records under the responsibilities of the company register:

Form number	Description	Court Rule Book	Type
47	Registration book for companies – Court Register (<i>Ti</i>)	283.	Registration book
47a	Registration book for register of legal entities – Court Register (<i>Fi</i>)	283.	Registration book
48	Registration book for diverse cases - Court Register (<i>R3</i>)	283.	Registration book
71	Index to the registration book for companies – Court Register (<i>Ti</i>)	290.	Index to the registration book
72	Index to the registration book for diverse cases - Court Register (<i>R3</i>)	290.	Index to the registration book

**Contacts Made by the Judicial Assessment Team
May 14 - June 3, 2000**

Mr. Carl Aaron
Program Officer
FIAS - Foreign Investment Advisory
Service
1818 H Street NW
Washington DC 20433 USA
Tel: 202 473 9610
Fax : 202 522 3262
Caaron@ifc.org

Mr. Ivo Bakalic
Deputy
Split Commercial Court
Ivana Gundulica 29a
21000 Split
Tel/Fax : 385 021/347-271

Mr. Jaksa Barbic
Professor
Faculty of Law
Trg marsala Tita 14
10 000 Zagreb
Tel: 385 1 4564 341
Fax : 385 1 37 60 440

Ms. Sandra Biber
Legal Assistant
ABA/CEELI
Berislaviceva 3/1
10 000 Zagreb
Tel: 385 1 4872 535
Fax : 385 1 4874-335
Sandra.biber@zg.tel.hr

Mr. Steven C. Boswell
5803 W. Evans
Glendale. AZ 85306 USA
Sboswell@gloval.t-bird.edu

Ms. Vesna Buljan
President
Zagreb Commercial Court
Petrinjska 8
Tel: 385 1 49 20 237
Fax : 385 1 43 31 92
GSM: 098 261 073

Professor Mihajlo Dika, LL.D.
Dean
Faculty of Law
Trg marsala Tita 14
10000 Zagreb
Phone: 385 1 4830-596
Fax : 385 1 4564-030

Mr. Helmut Deffner
Managing Director
MSD
Merck Sharp Dohme IDEA Inc.
Lipovecka 1
Tel: 385 1 37 83 847
Fax : 385 1 37 83 892
Helmut_deffner@merck.com

Mr. Donald A. Derman
Senior Advisor
KPMG Tower
1676 International Drive
McLean, VA 22102
Tel: 703 747 5700
Fax: 703 747 3813
Dderman@barents.com
www.barents.com

Mr. William L. Dorotinsky
Public Finance Advisor
1730 K Street, N.W.
Washington, D.C. 20006
Tel: 202 622 0292
Fax: 202 622 5879
Wdorotinsk@aol.com

Ms. Snjezana Dosen
Law Firm Zuric & Partners
Gunduliceva 63
10000 Zagreb
Tel: 385 1 48 81 322, 48 81 333
Fax : 385 1 48 56 703

Snjezana.dosen@zuric-i-partneri.Tel.hr

Mr. Raul Dubravec
Judge
Zagreb Commercial Court
Petrinjska 8
Tel: 385 1 45 53 522
Fax : 385 1 49 08 71

Mr. Srdan Dumcic
Director
PULS - Market Media and Public Opinion
Research
Trg hrvatskih velikana 5
Tel/Fax : 385 1 461 55 22
Gsm: 091 461 55 16
Sdumicic@puls.hr

Ms. Natasa Djurovic
Legal Adviser
Croatian Law Center
Ul. Andrije Hebranga 21
Tel/Fax : 385 1 485 6445
hpc@hpc.hr

Mr. Charles L. English
Counselor
US Embassy
Andrije Hebranga 2
10000 Zagreb
Tel: 3851 455 5500
Fax: 385 1 455 0394

Mr. Michael Glazer
President, AmCham Board of Governors
Director, Auctor Securities
Palmoticeva 2
10 000 Zagreb
Tel: 385 1 481 4139
Fax : 385 1 481-4143

Mglazer@auctor.hr

Mr. Branko Gracanin
Advisor to the President
Croatian Chamber of Economy
Rooseveltovej trg 2
10 000 Zagreb
Tel: 385 1 4561 536
Fax : 385 1 4828 380
Bgracanin@hgk.hr

Honorable Vladimir Gredelj
President
Bjelovar County Court
& Association of Croatian Judges
Josipa Jelacica 1
43000 Bjelovar
Tel: 385 43-24 47 97
Fax : 385 43-24 36 29
Vgredelj@usa.net

Mr. G. Patrick Hallenbeck
Principal
Financial Advisory Services
GPH
9494 Black Hawk Ct
Manassas Park VA 20111 USA
Tel: 7033657666
Fax: 7033670004
Gphpartner@aol.com

Mr. James "J" R. Hambric III
Director
KPMG Tower
1676 International Drive
McLean VA 22102
Tel: 9419227535
Fax: 9419276922
jhambric@barents.com
www.barents.com

Mr. Patrick C. Hughes
Commercial Attache
US Embassy
Andrije Hebranga 11/II
10000 Zagreb
Tel: 385 1 4610777
fax: 385 1 4553126
patrick.hughes@mail.doc.gov

Ms. Colleen E. Hyland
Office of South Central Europe
Department of State
Washington, D.C. 20520
Tel: 202 647 1739
Fax: 202 647 0555

Mr. Frederick Jahn
Liaison
ABA/CEELI
Berislaviceva 3/1
10 000 Zagreb
Tel: 385 1 429-883
Fax : 385 1 421 970
Fred.jahn@zg.tel.hr

Mr. Toni Jukic
Gesellschaft fur technische Zusammenarbeit
Ministry of Economy
Tel: 61 07 980
Fax : 61 07 981

Mr. Milivoj Jurisic
Director
Croatia Chamber of Economy
Small Business Department
Draskoviceva 45
10 000 Zagreb
Tel: 385 1 461 9252
Fax : 385 1 460-6761
Milivoj.jurisic@hgk.hr

Mr. Vanja Kalogjera
Executive Director
Croatian Investment Promotion Agency
Avenija Dubrovnik 15
10 000 Zagreb
Tel: 385 1 6554 559
Fax : 385 1 6554 563
Hapu@hapu.Tel.hr

Ms. Mirta Kapural
Office for European Integration
Ul. Grada Vukovara 62
10000 Zagreb
Tel: 385 1 63 03 171
Fax : 385 1 45 69 328
mirta.kapural@uei.hr

Mr. E.E. Skip Kissinger
Economic program Officer
USAID
Trg Bana J. Jelacica 3
Tel: 385 1 4811 977
Fax : 385 1 4816 143
Skissinger@usaid.gov

Mr. Drazen Komarica
Rotary Int. Ambassadorial Scholar
United States Fullbright Fellow
44 Fairview Ave.
Glen Rock, NJ 07452
Tel/Fax : 201 670 1098
Slavujevac 20
Tel/Fax : 385 1 483 4291

Mr. Mihael Kovacic
Vice President
Sisak Municipal Court
Trg Ljudevita Posavskog 5
44 000 Sisak
Tel/Fax : 385 044 522 923,522142

Ms. Beti Korac-Zuppa
Attorney at Law
Gajeva 49
Tel-Fax : 385 1 49 22 173
Tel: 385 1 49 22 166
GSM: 098 21 84 83
zuppa@zamir.net

Mr. Gary Michael Lazor
US Department of the Treasury
1730 K Street, NW
Washington DC
Tel: 202 622 7456
Fax : 202 622 5879
Glazor@iet.intr.net

Ms. Vesna Maglicic, mr.sc.
Law Firm Vedris & partners
Ozaljska 136
Tel: 01 36 36 335, 36 40 845
Fax : 01 3631658
vedris-partners@zg.tel.hr

Mr. Ranko Marijan
Deputy Minister
Ministry of Justice
R. Austrije 14
Tel: 385 1 37 10 610
Fax : 385 1 37 10 612

Mr. Tin Matic, M.Sc.
Specialist in International Trade Law
Bednjanska 14
Tel: 385 1 617 07 91
Fax /Tel: 385 1 617 07 92
tin.matic@zg.tel.hr

Mr. Bozidar Matovina
General Secretary
Ministry of Justice
Tel: 3710 770
Fax : 3710 772
Bmatovina@pravosudje.hr

Ms. Drazenka Menicanin
Secretary General
Croatian Chamber of Economy
Rooseveltovej trg 2
10 000 Zagreb
Tel: 385 1 482 84 53
Fax : 385 1 456 15 75
Gltajnik@hgk.hr

Honorable Valent Mikuldas
President
Bjelovar Commercial Court
Ivse Lebovica 42
43000 Bjelovar
Tel/Fax : 385 043/244-408

Mr. Vladimir B. Mikulicic
Site Manager
Parsons Group Int. Ltd.
Kusevacka b.b.
Tel: 385 1 613 8001
Fax : 385 1 7722
Vladimir.mikulicic@zg.tel.hr

Ms. Jeanette Miller
Director, Business Development Southeast
Europe
U.S. Trade & Development Agency
U.S. Embassy Zagreb
Andrije Hebranga 11/II
10 000 Zagreb
Tel: 385 1 461-0777
Fax : 385 1 455-3126
Jmiller@tda.gov

Dr. Deša Mlikotin-Tomic
General Director
Agency for the Protection of Market
Competition
Savska Cesta 41
10 144 Zagreb
Tel: 385 1 617-6448
Fax : 385 1 617-6450
agencija.trz.natjecanja@zg.tel.hr

Mr. Frank Muller
Head of Risk Management
BNP-Dresdner Bank (Croatia) d.d.
A. Zaje 61
10 000 Zagreb
Tel: 385 1 3652-777, 720
Fax : 385 1 3652-779, 729
Frank.muller@BNP-Dresdner.com

Mr. Charles M. Northrip
Network Operations Manager
Promedia
Irex - Int. Research & Exchanges Board
Perkovceva 2
Tel: 385 1 4826100
Fax : 385 1 4826 102
Charles@irex.hr

Mr. Drazen Odorcic
Advisor, Legal Department
Croatian National Bank
Trg Burze 3
10 000 Zagreb
Tel: 385 1 45 64 702
Fax : 385 1 45 64 874

Ms. Mirna Pavletic-Zupic
Head of Dept. of International Affairs
Agency for Protection of Market
Competition
Savska Cesta 41
10 144 Zagreb
Tel: 385 1 617-6449, 617-7196
Fax : 385 1 617-6450
agencija.trz.natjecanja@zg.tel.hr

Ms. Lisa Petter
Senior Democracy & Governance Advisor
USAID, American Embassy Zagreb
Trg Bana Jelacica 3
Tel: 385 1 48 11 977
Fax : 385 1 48 16 143
lpetter@usaid.gov

Ms. Sanja Pirsl
Chief of Cabinet
Ministry of Justice
Republike Austrije 14
10 000 Zagreb
Tel: 385 1 3710-600
Fax : 385 1 3710-602
Spirsl@prvosudje.hr

Mr. Mladen Popovic
Director
Items d.o.o.
Krajiska 13
10000 Zagreb
Tel/Fax : 385 1 377 00 94
GSM: 385 98 274 882
Items@zg.tel.hr

Ms. Vesna Pucar
Notary Public
Maksimirska 48/II
Tel: 01 23 03 703
Fax : 01 23 03 704

Ms. Nevenka Rogan-Skrapec
Head of Informatics Division
Ministry of Justice
Tel: 385 1 3710 791
Fax : 385 1 3764 211
Cell: 098 206 407
Nrogan@pravosudje.hr

Mr. Bozidar Rumenjak
Assistant Minister
Ministry of Justice
R. Austrije 14
Tel: 385 1 37 10 690
Fax : 385 1 37 10 692

Ms. Marija Sabol
Pol/Econ Specialist
Embassy of the US
Andrije Hebranga 2
10000 Zagreb
Tel: 385 1 455 5500 (ext. 2244)
Fax: 385 1 455 8585
SabolM@state.gov

Mr. Gunnar Sanne
General manager
Sheraton Zagreb hoTel
Kneza Borne 2
Tel: 385 01 455 35 35
385 01 459 91 02
Fax : 385 01 455 35 54
gunnar_sanne@sheraton.com

Mr. Dubravko Saric
BNP-Dresdner Bank
Legal Adviser
A. Zaje 61
Tel: 385 1 3652 777
Fax : 3652 729
Dubravko.Saric@BNP-Dresdner.com

Honorable Nenad Sepic
President
High Commercial Court
Berislaviceva 11
10 000 Zagreb
Tel: 385 1 4811-400, 422-251
Fax : 385 1 422-651

Honorable Duro Sessa
President
Municipal Court in Zagreb
Ul. Grada Vukovara 84
10 000 Zagreb
Tel: 385 1 6126-600
Fax : 385 1 6126-602

Mr. Philip Schubert, P. Eng.ing.
Canadian Int. Development Agency
Project Manager and Energy Specialist
Tel: 819 997 0841
Fax : 819 997 0628
Philip_schubert@acdi-cida.gc.ca

Mr. Sonal R. Shah
Deputy Representative for the Southeast
Europe Initiative
Embassy of the US
Rome, Italy
Tel: 39 06 46 74 3895
Fax : 39 06 46 74 2761

Mr. Bojan Sruk
Advisor
Agency for the Protection of Market
Competition
Savska Cesta 41
10 144 Zagreb
Tel: 385 1 617-6448
Fax : 385 1 617-6450
agencija.trz.natjecanja@zg.tel.hr

Mr. Vjeran Strahonja, doc.dr.sc.
Prostorni informacijski sustavi
IGEA
Trg kralja Tomislava 3
42000 Varazdin
Tel/Fax : 385 042 320333
igea@igea.com
www.igea.com

Mr. Damir Strelov
Executive Director
Puls - Market Media and Public Opinion
Research
Trg hrvatskih velikana 5
10000 Zagreb

Mr. Paul Stroh
Senior Advisor
KPMG Tower
1676 International Drive
McLean, VA 22102
Tel: 703 534 7610
Fax: 703 534 7610
Pstroh@kpmg.com
www.barents.com

Ms. Svjetlana Tomulic
Law Firm Tomulic & Blazevic
Krizaniceva 5
10000 Zagreb
Tel/Fax : 385 1 4611 541

Ms. Laura A. Trimble
Budget Advisor
Budget Policy and Management Section
US Department of the Treasury
1730 K Street, N.W.
Suite 204
Washington, D.C. 20006
Tel: 202 622 5789
Fax: 202 622 5879

Mr. Alan Uzelac
Assistant Professor
University of Zagreb
Faculty of Law
Trg M. Tita 3
10 000 Zagreb
Tel: 385 1 460 6707
Alanuzelac@public.srce.hr

Mr. Miroslav Vajagic
Senior Consultant
PricewaterhouseCoopers d.o.o.
Heinzelova 4a
Tel: 385 1 46 00 808
Fax : 385 1 45 53 449
Miroslav.vajagic@hr.pwcglobal.com

Ms. Vlatka Vedris
Attorney at Law
Vedris & Partners
Ozaljska 136
10 000 Zagreb
Tel: 385 1 3636 335
Fax : 385 1 3631 658
Vedris-partners@zg.tel.hr

Honorable Mario Vukelic
Judge
Zagreb Commercial Court
Petrinjska 8
10 000 Zagreb
Tel: 385 1 435 026
Fax : 385 1 4331-92

Dr. Branko Vukmir
Legal Advisor
Croatian Investment Promotion Agency
Dubrovnik 15
Zagreb
Tel: 385 1 655-4559

Mr. Mladen Vukmir
Attorney at Law
Pantovcak 35
Tel: 385 1 376 0511
Fax : 385 1 376 0555
mladen.vukmir@vukmir.net

Ms. Ellen M. Yount
Resident Program Officer
IRI
Dordiceva 5
10000 Zagreb
Tel: 385 1 481 1106
Fax : 481 1757
ellen.yount@zg.tel.hr

Ms. Zvezdana Znidarcic-Begovic
Croatian Bar Association
Koturaska 53
10000 Zagreb
Tel: 385 1 6171270 (Ms.Barac)
Law Firm Znidarcic-Begovic
Ksaverska cesta 35a
Tel: 385 1 4677 751
Fax : 385 1 4677 727

Ms. Beti Korac Zuppa
Croatian Law Center
Hebrangova 21
10000 Zagreb
Tel/Fax : 385 1 48 56 445